

In The High Court at Calcutta
Constitutional Writ Jurisdiction

W.P.A. 14796 of 2024

Kalpana Roy

Vs.

The State of West Bengal & Ors.

Mr. Sourav Mitra,
Ms. Sreyasree Choudhury

...For the petitioner.

Mr. Aniket Mitra

...For the State.

Affidavit-of-service filed on behalf of the petitioner be kept with the record.

The petitioner is the unmarried daughter of a deceased Assistant Teacher of a High School. A co-ordinate Bench of this Court by an order dated March 06, 2024 passed in W.P.A. 22711 of 2023 had directed the District Inspector of Schools (S.E.), Paschim Medinipur, the respondent no. 4 herein to consider the prayer of the petitioner in the light of the judgment of the Special Bench of this Court in ***M.A.T. 1518 of 2019 (The State of West Bengal Vs. Sabita Roy)***.

The respondent no. 4 by the impugned order bearing Memo No. 830-S/2(1), dated April 05, 2024 has rejected the said prayer of the petitioner holding that the petitioner being an unmarried daughter of a teacher, who had retired from his said service before April 30, 1976 is not entitled to family pension.

The co-ordinate Bench though has specifically directed the respondent no. 4 to consider the aforementioned Special Bench judgment of this Court while deciding the prayer of the petitioner, but unfortunately has failed to take into consideration of the ratio of law decided therein. The said judgement has attained finality inasmuch as it has been affirmed by the Hon'ble Supreme Court in ***Special Leave Petition (Civil) Diary No (S). 30809/2024***.

That being the position, the impugned memo dated April 05, 2024 is not sustainable and is accordingly set aside.

The respondent no. 4 is directed to prepare the pension papers and to take forward steps for issuance of pension payment order in favour of the petitioner. The exercise in this regard should be made expeditiously preferably within a period of eight weeks from the date of communication of this order.

W.P.A. 14796 of 2024 is thus disposed of with the above observations without any order as to costs.

Since no affidavit-in-opposition has been invited, the allegations contained in the writ petition are deemed to have been denied by the respondents.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)