

10.11.2025
Sl. No.4(DL)
Ct. No.7
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 16665 of 2025

Utpal Sen

Versus

The State of West Bengal & Ors.

Mr. Sourav Mitra,
Ms. Pritikana Gantait,
Adv. Sudipta Maiti

...for the Petitioner.

Mr. Amita Ghosh,
Ms. Aniruddha Sen

...for the State.

1. By the present writ petition, the petitioner seeks for cancellation and/or withdrawal of Memo No.763/P dated 22nd August, 2024 (Annexure P-9 to the application) whereby the prayer of the petitioner for grant of family pension was rejected by the respondent No.4, District Inspector of Schools (P.E.), Paschim Medinipur.
2. The petitioner contends that he is a handicapped son of late Tulsi Charan Sen, ex-Assistant Teacher of Basudevpur Primary School under District Primary School Council, Paschim Medinipur. The father of the petitioner died-in-harness on 24th February, 1963. The mother of the petitioner was granted family pension. The petitioner's mother died on 12th April, 2013. Upon

demise of his mother the petitioner being handicapped son of the ex-employee applied before the District Inspector of Schools (P.E.), Paschim Medinipur for grant of family pension. Since the prayer of the petitioner was not considered, the petitioner approached this Court by way of a writ petition being WPA 11196 of 2024. The said writ petition was disposed of with the following direction:

“In those circumstances, the concerned District Inspector of Schools (P.E.) shall consider the petitioner’s representation afresh enclosing the details of the pension payment order of his late father and other documents prescribed in the said Circular within a period of fifteen days from date.”

3. Pursuant to such direction, the prayer of the petitioner for grant of family pension was considered and rejected by the respondent No.4, District Inspector of Schools (P.E.), Paschim Medinipur by the impugned order on the ground that there is no provision of sanctioning pension in favour of disabled son as Pre-81 case. Being aggrieved by and dissatisfied with the impugned order, the petitioner has preferred the present writ petition.
4. Mr. Sourav Mitra, learned Advocate appearing for the petitioner referring to the decision of the Larger Bench passed in ***the State of West Bengal in State of West Bengal & Ors. versus Sabita Roy (In Re: MAT 1518 of 2019)*** submits that the law is now well settled that a teaching and non-teaching staff who retired prior to 1st April, 1981 or after 1st April, 1981 was entitled to get the pensionary benefits in terms of the DCRB Scheme, 1981. The unmarried or widowed or divorced

daughter of an employee who retired prior to 1st April, 1981 or after 1st April, 1981 is entitled to get family pension on fulfilment of the requirements of Memorandum No.96-SE dated 13th April, 2010. By Memorandum dated 5th September, 2005 the family pension is also extended in favour of son or daughter suffering from disorder or disability of mind or who is physically crippled or disabled. Thus, the petitioner being a handicapped son of deceased employee is entitled to receive family pension. He seeks for setting aside of the impugned order dated 22nd August, 2024 passed by the respondent No.4, District Inspector of Schools (P.E.), Paschim Medinipur and for issuance of pension payment order in favour of the petitioner. To buttress his contention, he relies on the decision of a Co-ordinate Bench of this Court passed in ***Anupam Das Chakraborty versus the State of West Bengal & Ors. (In Re: WPA 22029 of 2023)***.

5. Ms. Amita Ghosh, learned Advocate for the State, leaves the matter to the discretion of the Court.
6. In *Sabita Roy* (supra) the Full Bench of this Court observed as follows:

“18. We have no hesitation in mind to hold that the unaltered or unaffected Memoranda as above clearly demonstrate in unequivocal terms that a teaching and non-teaching staff who retired prior to 1st April, 1981 or after 1 April, 1981 was entitled to get the pensionary benefits in terms of the DCRB Scheme, 1981. On the demise of such staff, their widows are entitled to get family pension in terms of the modified provision of the scheme 1981 vide memorandum dated 01.11.2010. The unmarried or widowed or divorced daughter of an employee who retired prior to 01.04.1981 or after 01.04.1981 is entitled to get family pension on fulfilment of the requirements as per the mechanism introduced vide

Memorandum no. 96-SE dated (13.04.2010. In such legal scenario, we do not concur with the decision rendered in Bela Ran Acharya and Abida Khatun Sk. that an unmarried daughter is not entitled to get family pension till her life ends on the demise of her parent who either received pension or family pension. Though in the decision in MAT 119 of 2015 (Kumari Reba Ghosh-Vs-The State of West Bengal), the Division Bench had ruled that unmarried daughter of a pensioner would be entitled to get family pension, but this Bench neither referred to nor interpreted the relevant extension of family pension memoranda unmarried/widowed/divorced daughter. That being the position, we though concur with the final decision, but we respectfully disagree with the observations as recorded therein.”

7. Upon going through the aforesaid proposition, it is now settled that the widowed, unmarried and divorced daughter of a deceased teacher retired prior to 1st April, 1981 was found entitled to family pension. By Memo No.325-SE(B)/IM-43/2003 dated 5th September, 2005, the family pension was extended in favour of the son or daughter suffering from disorder or disability of mind or who is physically crippled or disabled.
8. In similar circumstances, this Court in *Aupam Das Chakraborty* (supra) allowed the prayer for grant of family pension in favour of handicapped son.
9. As per the certificate issued by the Block Development Officer, Daspur-I, Paschim Medinipur, the annual income of the petitioner’s family is Rs.36,000/-.
10. Accordingly, the impugned order dated 22nd August, 2024 passed by the District Inspector of Schools (P.E.), Paschim Medinipur is hereby set aside.
11. In light of decision of this Court as above, the respondent No.4, the District Inspector of Schools (P.E.), Paschim Medinipur is directed to verify the disability certificate of the petitioner from the issuing

authority forthwith and forward a report to the respondent No.3, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal within a period of one month from the date of communication of this order.

12. Upon receipt of such report and if found to be genuine, respondent No.3, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal shall issue a pension payment order in favour of the petitioner within a period of one month from date of receipt of the report from the District Inspector of Schools (P.E.), Paschim Medinipur. The Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, respondent no.3 herein is further directed to release the arrear family pension, if any, in favour of the petitioner.

13. Learned advocate for the petitioner is directed to communicate this order to respondent No.4, the District Inspector of Schools (P.E.), Paschim Medinipur and respondent no.3, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, for necessary compliance.

14. With the aforesaid direction, the writ petition being **WPA 16665 of 2025** stands disposed of.

15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

16. Interim order, if any, stands vacated.

17. All connected applications, if any, stand disposed of.

18. There shall be no order as to costs.

19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)