

16.12.2025
Sl. No.17
Ct. No.14
gd

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

WPA/18094/2025
MALATI GUIN
VS
STATE OF WEST BENGAL AND ORS.

Mr. Sujit Bhunia

...for the Petitioner.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks for direction upon the respondent authorities for grant of family pension in her favour including arrear family pension, if any.
3. The petitioner contends that her father, namely, Madhusudan De @ Dey was an approved teacher of Asurgeria Primary School under Raipur Circle, District-Bankura. The petitioner's father retired from service on superannuation on 31st December, 1994. Upon such retirement Pension Payment Order was issued in favour of the father of the petitioner. The father of the petitioner died on 23rd June, 2009. After the demise of the petitioner's father the mother was granted family pension. The mother of the petitioner died on 10th April, 2018. The husband of the petitioner died on 28th July, 2008. The petitioner being the

widowed daughter made a representation on 22nd November, 2022 before the authority, namely, respondent no.4, Director of Pension, Provident Fund and Group Insurance for grant of family pension in her favour. However, no steps have been taken. Hence, this writ petition.

4. Mr. Sujit Bhunia, learned Advocate for the petitioner submits that as per the Government Order under Memo No.744-F (Pen) dated 17th November, 2008 a widowed daughter is entitled to get family pension. In support of his contention he also relies on the decision of the Hon'ble Special Bench passed in ***State of West Bengal & Others v. Sabita Roy (MAT 1518 of 2019)*** along with other appeals and writ petitions.
5. None appears on behalf of the State.
6. Ms. Lipika Chatterjee, learned advocate, who usually appears for the State, is requested to appear in this matter. Let her appointment be regularised.
7. The petitioner is directed to hand over a copy of the writ petition along with the annexures to Ms. Lipika Chatterjee, learned advocate for the State.
8. Ms. Chatterjee, learned advocate for the State leaves the matter to the discretion of the Court.
9. The Hon'ble Special Bench in *Sabita Roy (supra)* observed as follows:

“14. The golden rule as postulated by Hon'ble Apex Court in *D.S. Nakara (supra)* was that the provision of a pensionary rule /law being beneficial to a homogenous class of pensioners, should be interpreted liberally in their favour. Furthermore, the classification within the Homogeneous class, though permissible, must pass the muster of intelligible differentia. The classification within the class

should be reasonable, rationale and manifest the laudable object sought to achieve. Any attempt to create separate class segregated from the Homogeneous class must stand on the test of reasonableness. In such backdrop and in the absence of any provision in the memorandum dated 01.11.2010 affecting or restricting the beneficial memoranda as above, by extending the pensionary benefits to unmarried/widowed/divorced daughters of retired employees or family pensioner, we hold that the aforesaid memoranda still occupy the field relating to granting pensionary benefits to those classes of women.”

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 1st 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 Rani 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 2014 (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 memoranda relating to extension of family pension to an 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. From the memoranda as above it is clearly explicit that the legislative intent was to extend the benefits of family pension to unmarried / widowed / divorced daughter of an employee who retired before or after 01.04.1981 or to unmarried / widowed / divorced daughter of a family pensioner. In such premise, the memorandum dated 1st November, 2010 should not stand in the way of extending such benefits in the absence of any express provision therein restricting or affecting the benefits. Socio-economic justice stemming from the Page | 13 2023:CHC-AS:32300-FB concept of social morality, if pressed into service, the memoranda granting social security of livelihood to the aforesaid classes of women by providing family pension should be construed liberally. Some isolated terms in the memorandum dated 01.11.2010 providing pension to living employees or their widows, in our view, cannot restrict the beneficial provisions contained in the memoranda as above.”*

10. In the light of the decision of the Hon'ble Special Bench, the writ petition is disposed of directing the respondent No.4, Director of Pension, Provident Fund and Group Insurance, West Bengal to consider and dispose of the application of the petitioner for grant of family pension dated 22nd November, 2022 within a

period of eight weeks from the date of communication of this order. In the event the petitioner is found to be entitled to family pension, the Pension Payment Order be issued in her favour along with arrear family pension, if any.

11. Learned advocate for the petitioner is directed to communicate this order to respondent No.4, Director of Pension, Provident Fund and Group Insurance, West Bengal, for necessary compliance.
12. With the above direction, the writ petition being **WPA 18094 of 2025** stands disposed of.
13. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
14. Interim order, if any, stands vacated.
15. All connected applications, if any, stand disposed of.
16. There shall be no order as to costs.
17. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
18. 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.)