

Ml- 08.01.2025
227 Ct.18
rkd

W.P.A. 18841 of 2023

Soma Adhikary

-vs-

The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Santanu Maji,
Mr. Subhayu Das

....for the petitioner.

Mr. Raja Ram Banerjee

....for the State.

In terms of the order dated 9th December, 2024 supplementary affidavit has been filed by the petitioner and the same is take on record.

On perusal of supplementary affidavit, it appears that petitioner has averred in paragraph 4 that she is an unmarried daughter of a teacher who died on 22nd June, 1980.

In the writ petition in addition thereto, it has been averred that petitioner is suffering from disability. Petitioner prays for direction upon the concerned State respondents to sanction family pension since her mother who was in receipt of family pension in connection with service of his father died on 21st August, 2017.

Challenge has also been thrown to memo dated 3rd September, 2019 issued by the District Inspector of Schools (SE), Howrah whereby claim of

the petitioner for sanctioning family pension was refused.

In support of the case made out in this writ petition reliance is placed on the judgment of the Hon'ble Special Bench dated 20th June, 2023 passed on an intra Court appeal being ***MAT 1518 of 2019 (The State of West Bengal & Ors. -vs- Sabita Roy)***.

It is also submitted that the judgment of the Hon'ble Special Bench dated 20th June, 2023 was assailed before the Hon'ble Supreme Court but the Special Leave Petition (Civil) Diary No(s). 30809/2024 was dismissed on 12th December, 2024.

Copy of the order of the Hon'ble Supreme Court dated 12th December, 2024 is placed before this Court and same is taken on record.

State respondents are also represented by learned advocates.

Considering the prayer made by the petitioner claiming to be an unmarried daughter with disability of a deceased teacher for sanction of family pension, this Court is required to rely upon the ratio decided in ***Sabita Roy (supra)***. Paragraph 19 of the ***Sabita Roy (supra)*** is quoted below:

“19. Therefore, we answer the reference

to this extent that the benefit of family pension can be extended to unmarried/widowed daughter of an employee who superannuated or died prior to coming in force of the Death-cum-Retirement Benefit Scheme, 1981, which came into effect on and from 1st April, 1981”.

Judgment of the Hon’ble Special Bench delivered in **Sabita Roy (supra)** was challenged before the Hon’ble Supreme Court but the SLP was dismissed vide order dated 12th December, 2024.

Therefore, the issue relating to entitlement of the petitioner to receive family pension being unmarried daughter with disability of a teacher who died prior to 1981 is no more *res integra*.

State respondents including the District Inspector of Schools (SE), Howrah being respondent no.6 are directed to sanction family pension in favour of the petitioner by eight weeks from the date of communication of this order provided petitioner is found otherwise eligible to receive such benefits.

Petitioner is directed to appear before the respondent no.6 on 15th January, 2025 at 12 Noon to substantiate that she is an unmarried daughter of the deceased teacher and before sanctioning family pension the respondent no. 6 is required to

express satisfaction to that extent.

Accordingly, impugned order dated 3rd September, 2019 issued by the respondent no.6 stands set aside.

With the aforesaid directions, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)