

MAT 1602 of 2025
with
IA No. CAN 1 of 2025
(Anil Pal Vs. The State of West Bengal & Ors.)

Mr. Dilip Kumar Maiti
.... For the appellant

Mr. Rajarshi Basu
Mr. Kushal Biswas
..... For the State respondents

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 5th August, 2025 passed by the learned single Judge in a writ petition being WPA 13937 of 2025 by which the writ petitioner's claim for family pension was refused observing, *inter alia*, that there is no provision under the relevant rules to release family pension to the father of a deceased teacher.

Mr. Maiti, learned advocate appearing for the appellant submits that the appellant's claim was turned down by a cryptic order without considering the provisions of the West Bengal Recognized Non-Government Educational Institution Employees (Death-cum-Retirement Benefit) Scheme, 1981 (hereinafter referred to as the said Scheme).

Mr. Basu, learned advocate appearing for the State respondents, however, denies and disputes the contention of the appellant and submits that the issue

of entitlement could not be established by the appellant and as such the writ petition was rightly dismissed.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The following facts are not in dispute. The daughter of the appellant was appointed on 13th December, 2013 in the post of an assistant teacher. She unfortunately expired on 5th April, 2023 prior to her retirement, having completed 9 years 3 months 24 days of service. She left behind his father as her sole heir since her mother had expired earlier on 3rd April, 2021.

Clause 23 of the said scheme provides *inter alia* that family pension is admissible to the member of the family of an employee who dies while in service after rendering at least one year's service. In the present case, the appellant's daughter expired after discharging more than 9 years of service. The definition of '*family*' under Clause 5(s)(2) of the said Scheme for the purpose of family pension includes '*dependant parents*'. Had such provisions been brought to the notice of the learned single Judge, the order might have been otherwise.

Records reveal that the appellant did submit a representation to the respondent no. 2 on 5th May, 2025 praying for grant of family pension but the competent authority did not consider the same and accordingly

failed to discharge the statutory obligation. It was incumbent upon the said authority to consider the said representation and to ascertain as to whether the appellant herein was dependent upon the income of the deceased.

In the said conspectus, we set aside the order impugned in the present appeal and direct the respondent no. 2 to consider the appellant's representation dated 5th May, 2025 upon granting an opportunity of hearing to the appellant and to pass a reasoned order, in accordance with law and to communicate the same to the appellant within a period of 8 (eight) weeks from date of communication of this order along with a copy of the writ petition.

Needless to observe, in the event the appellant's claim deserves acceptance, necessary follow up steps shall be taken by all the respondents forthwith.

With the above observations, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)