

03.11.2025
Sl. No.5(ML)
Ct. No.7
srm

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

W.P.A. No. 23480 of 2024

Gouri Adhikari

Versus

The State of West Bengal & Ors.

Mr. Uttam Kumar Bhattacharyya,
Mr. Kaustuv Mishra

...for the Petitioner.

Mr. Biswabrata Basu Mallick, AGP
Mr. Tamal Taru Panda

...for the State.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks for setting aside and/or withdrawal of the impugned order under Memo No.669/P/1(7) dated 5th June, 2023 (Annexure P-6) and further seeks permission to refund the Government's share of contribution in her husband's provident fund along with interest and additional interest pension to avail the benefit of pension.
3. The petitioner contends that her husband namely, Sudha Krishna Adhikary was appointed as primary teacher under District School Board, Midnapore and retired from service upon superannuation on 29th March, 1995 as an Assistant Teacher from Ramchandrapur Jnanada Memorial Primary School,

Ramchandrapur, District Midnapore (now Purba Medinipur). The husband of the petitioner opted to come under the revised scale of pay in terms of G.O. No.33 Edn.(B) dated 7th March, 1990 with effect from 1st April, 1986 and continued to receive the revised scale of pay till his retirement on superannuation. The husband of the petitioner died on 8th June, 2015 leaving behind the petitioner (widow) and four major sons and two major daughters. The family pension was not granted to the petitioner on the ground of overdrawl of salary which overturns the amount of gratuity by the impugned order. There is no such excess drawal of salary by the petitioner's husband. Being aggrieved and dissatisfied with the action of the respondent authorities, the petitioner has filed the present writ petition.

4. Mr. Uttam Kumar Bhattacharyya, learned Advocate for the petitioner submits that husband of the petitioner since has exercised his option to come under the ROPA, 1990 in terms of judgment dated 26th July, 2023, passed by Hon'ble Division Bench in MAT 146 of 2019 (State of West Bengal & Ors. versus Sasita Roy) and batch of other appeals need not exercise a fresh option. However, in order to get the benefit of pension is obliged to refund the Government's share of contribution in her husband's provident fund. The petitioner is willing to refund the amount to be

calculated by the respondent No.8, District Inspector of Schools (Primary Education), Purba Medinipur.

5. Mr Biswabrata Basu Mallick, learned Additional Government Pleader appearing for the State submits that in view of the willingness on the part of the petitioner to deposit the amount to be refunded the respondent No.8, District Inspector of Schools (Primary Education), Purba Medinipur may be directed to grant the pension benefits to the petitioner.
6. Accordingly, the respondent No.8, District Inspector of Schools (Primary Education), Purba Medinipur is directed to calculate the amount required to be refunded by the petitioner to get the benefit of pension and upon deposit of the said amount, the said respondent being the pension sanctioning authority shall verify the pension papers of the petitioner and sent the same to the respondent No.5, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal for further steps to be taken in accordance with law for issuance of the Pension Payment Order in favour of the petitioner.
7. The aforesaid exercise shall be completed within a period of three months from the date of communication of this order.
8. The pension shall be paid to the petitioner on and from the date of superannuation of the petitioner's husband.

9. The impugned order dated 5th June, 2023 (Annexure P6) is hereby set aside along with other consequential orders, if any.
10. Learned advocate for the petitioner is directed to communicate this order to respondent No.8, District Inspector of Schools (Primary Education), Purba Medinipur and respondent No.5, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal.
11. With the above direction, the writ petition being **WPA 23480 of 2024** stands disposed of.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. There shall be no order as to costs.
16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
17. 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.)