

03.04.2025
SI No.2
Court No.8
(gc)

MAT 1729 of 2017
CAN 1 of 2017 (Old No: CAN 10052 of 2017)
CAN 2 of 2017 (Old No: CAN 11751 of 2017)

Smt. Aparna Chakdar
Vs.
The State of West Bengal & Ors.

Ms. Bratati Dutta,
Mr. Sakti Pada Jana,
Mr. Subhajyoti Das
...for the Appellant.
Mr. Pinaki Dhole,
Ms. Sanjukta Samanta
...for the State.

Re: CAN 1 of 2017
(Old No: CAN 10052 of 2017)

1. There is a delay of 173 days in filing the memorandum of appeal.
2. We are satisfied with the explanation offered for not being able to file the appeal within the period of limitation. The delay of 173 days is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

Re: MAT 1729 of 2017
With
CAN 2 of 2017
(Old No: 11751 of 2017)

4. The appeal is arising out of an order dated 3rd March, 2017. The learned Single Judge in disposing of the said matter had taken into

consideration His Lordship's earlier order in W.P. No.24274(w) of 2015 in Smt. Sima Prodhan Vs. The State of West Bengal & Ors. The petitioner/appellant is aggrieved by the said judgment and, accordingly, has preferred this appeal. An objection is raised at the initial stage of the hearing of the appeal as to the maintainability of having the nature of the order. It is submitted that the Counsel for the parties have agreed that in view of the judgment dated 7th February, 2017 in W.P. No.24274(w) of 2015, the writ petition is required to be disposed of. The submission at the initial stage appears to be attractive but on a consideration of the facts, it appears that the learned Single Judge while deciding the matter could not have taken any other view having regard to His Lordship's earlier order dated 7th February, 2017 and it binds His Lordship and, accordingly, the petition was in effect dismissed. On the merits of the issue, it has been fairly submitted that this issue has been decided in a series of judgments in favour of the widow, one of which, delivered by a Bench presided over by one of us in Pramila Behara Vs. The State of West Bengal & Ors. dated 11th December, 2023. The learned Counsel for the appellant has drawn

our attention to the paragraphs 12, 13, 14 and 15 of the said judgment. It is not in dispute that the petitioner stands on the same footing as that of Pramila Behara and would be entitled to the same reliefs as was extended to Pramila Behara.

5. Accordingly, the petitioner is entitled to the benefits that were extended to Pramila Behara in terms of the order dated 11th December, 2023.
6. It is undisputed that the issues involved in this appeal were also the issues involved in Pramila Behara and the facts are identical.
7. On such consideration, the order of the learned Single Judge is set aside and the appeal is disposed of with the following direction:-
 - “1. The respondent authorities are directed to calculate the employer's share of Contributory Provident Fund with interest and additional interest which the petitioner is required to refund for availing the benefit of pension cum gratuity scheme and intimate the same to the petitioner within a period of eight weeks from date. The petitioner shall deposit the specified amount of the employer's share of CPF with interest

and additional interest to the Government Treasury through the concerned District Inspector of Schools within ten days from the date of receipt of the statement of refund. The concerned District Inspector of Schools shall send the pension papers of the petitioner to the Office of the Director of Pension, Provident Fund and Group Insurance, West Bengal after verifying the same and shall issue pension payment order in favour of the petitioner within two months thereof.

2. In computing the interest, the appropriate authority shall take into consideration the clause 3(iv) of the Notification dated 13 June, 2014 which has prescribed the rate of interest to be paid towards refund of the employer's share of contributory provident fund upto the date of exercise of option.
3. The family pension shall be payable the respondents from the date of actual superannuation and/or the death of the concerned teacher as the case may be. Let arrears of pension be paid to the writ petitioners respondents, within a

period of three months of issuance of
the Pension Payment Order.”

8. With the aforesaid observation, the appeal and the connected application are disposed of.
9. However, there shall be no order as to costs.
10. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Smita Das De, J.)