

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Ct.551 **23.06.25**
Item No.15 Sws.M

WPA 26040 of 2018

**Asma Begum (Bewa)
Vs
State of West Bengal &Ors.**

Mr. Ekramul Bari
Mr. Alauddin Ahmed
Sk. Imtiajuddin

....for the petitioner

Mr. Pinaki Dhole
Mr. Avisheek Prasad

....for the State

1. The petitioner is a widow of a Primary School Teacher who died-in-harness on April 24, 2005 at the age of 44 years. Upon the death of her husband, the petitioner applied for pension and other benefits under the Death cum Retirement Benefit Scheme, 1981 (hereinafter DCRB), in terms of the relevant rules.
2. The petitioner's application for the benefits and pension under the DCRB scheme remained unconsidered for long and as such the petitioner approached this Court by filing a writ petition being WP 15988(W) of 2009. The said writ petition was ultimately disposed by an order dated September 13, 2011 directing, *inter alia*, as follows:

“Since the benefit has already been extended to the family of the deceased employee and in view of the recommendation made by the Chairman, District

Primary School Council, Coochbehar, the respondent no. 4 had no occasion to withhold the grant of such benefit to the petitioner.

The respondent no. 4 is hereby directed to forward such recommendation dated 06.08.2009 to the respondent no. 3 for taking appropriate action in the matter. Such exercise shall be completed by the respondent no. 4 within three weeks from the date of communication of this order. the respondent no. 3, after receiving the said recommendations, shall grant sanction to the said family pension to the petitioner at an earliest date and shall take all consequential steps which are required for the purpose of sanction of family pension.”

3. It is the petitioner's grievance that despite such order having been passed in 2011, nothing has thus far been paid to the petitioner.
4. Mr. Bari, learned advocate appearing for the petitioner submits that despite the order dated September 13, 2011 commanding the District Inspector of Schools (Respondent No. 3 in the earlier writ petition) for taking appropriate action to ensure that after the said District Inspector of Schools received the recommendations from the Respondent No. 4 in the earlier writ petition i.e. the Accountant General (A & E), West Bengal, family pension was granted to the petitioner at the earliest date with a further direction upon the said District Inspector of Schools to take all consequential steps required for

the purpose of family pension, nothing has been done thus far.

5. Mr. Dhole, learned advocate appearing for the State-respondents invites the attention of this Court to the Affidavit-in-Opposition filed by the Director of Pension, Provident Fund & Group Insurance, West Bengal to contend that the petitioner has been getting family pension @ Rs.75/- per month sanctioned by Accountant General (A & E), West Bengal.
6. Mr. Bari submits that payment of such paltry sum is not being made in terms of the order dated September 13, 2011 passed by this Court in WP No. 15988(W) of 2009 in as much as the payment of the said small sum as pension was itself the subject matter of challenge in the said earlier writ petition.
7. Having heard the learned advocates appearing for the respective parties and having considered the material on record, it is now clear that despite the order dated September 13, 2011 having been passed, the petitioner is in the same position where it was when the petitioner had filed WP 15988(W) of 2009.
8. If the order dated September 13, 2011, passed by this Court is perused, it will appear that what was under challenge in the said writ petition was a memo being No. 1740/1(1)/2K-213 dated August 6, 2009, whereby the Chairman, District Primary School Council, Coochbehar had recommended the Principal Accountant General (A

& E), Government of West Bengal to grant normal family pension to the petitioner on the ground that the deceased employee during his lifetime did not fill the DCRB option form. Such stand taken by the respondent authority was annulled by this Court while rendering the order dated September 13, 2022 by observing that as benefit had already been extended to the family of the deceased employee and in view of the recommendation made by the Chairman, District Primary School Council, Coochbehar, (i.e. the respondent No. 6 in the said writ petition), the Accountant General, (A&E), West Bengal (i.e. the Respondent No. 4 in the said writ petition) had no occasion to withhold the grant of such benefit to the petitioner.

9. Having regard to the aforesaid fact situation, there remains nothing more to be decided on the part of the respondent No. 7 herein, i.e. the Accountant General (A&E), West Bengal and the said respondent remains bound to scrupulously comply with the order dated September 13, 2011 passed by this Court in W.P. No. 15988 (W) of 2009.

10. Mr. Bari has also placed reliance on an unreported judgment of this Court rendered in the case of *Ferdowsi Ara Begum vs. State of West Bengal (WPA 23734 of 2013)* dated December 13, 2022 wherein it has been held that a second writ petition can be filed seeking compliance with

and/or implementation of an earlier order passed by this Court under Article 226 of the Constitution of India.

11. Since it is clear that the order dated September 13, 2011 has remained unimplemented in letter and spirit despite more than a decade having passed thereafter, the respondent Nos. 6 and 7 are directed to take steps to comply with the said order dated September 13, 2011 forthwith.

12. It is made clear that such compliance should be done immediately and in any case not beyond six weeks from date. Since an order passed by this Court has remained un-complied, for more than fourteen years, the Director of Pension, Provident Fund and Group Insurance, West Bengal (the respondent No. 3 herein) shall oversee the matter and ensure that the directions contained in the order dated December 13, 2011 are complied forthwith, in terms of this order.

13. With the above observation, WPA 26040 of 2018 stands disposed of.

(Om Narayan Rai , J.)