

19.06.2025

Item No.03

Crt.No.02

b.r.

WPA 31041 of 2024

Mrs. Rimasree Brahma

-vs-

The Union of India & Ors.

Mr. Krishna Das Poddar

Ms. Rubina Akhtar

Mr. Surajit Maity

Ms. Mandira Barman

..... for the petitioner.

Mr. Udayan Chakraborty

Mr. Anjan Chakraborty

.... For the Resp. nos. 1 to 5.

On the prayer of Mr. Krishna Das Poddar, learned counsel appearing for the petitioner, time to file exception in the form of affidavit filed on behalf of the respondent nos. 1 to 5 stands extended till today. The exception filed in Court today, is taken on record.

The previous order dated **April 10, 2025** speaks for itself in detail.

Pursuant to the direction of this Court made in the said order, the respondent no.4 by way of an affidavit has filed a report. **Paragraphs 5 and 6** of the report would depict the detail of payment already made to the petitioner. However, **Serial No. 6** of the table shows, the amount on account of self-contribution of **NPS** subscription deposited in **PRAN** has not been paid

and the same is under consideration before the appropriate authority.

On a plain reading of the prayers made in the writ petition, it appears that the petitioner's husband has become **100%** disabled due to loss of his vision in both the eyes. Accordingly, she claims disablement pension/compensation along with an enquiry to ascertain the cause of the said disablement of her husband.

Prayer (d) to the writ petition shows that the petitioner claims compensation on account of the disablement suffered by the husband of the petitioner.

After hearing the rival contentions of the parties and upon perusal of the materials on record including the writ petition, the report and the exception filed by the parties, this Court is of the view that, a detail fact finding enquiry is required to be done on the basis of the existing materials on record to come to a logical conclusion with regard to the claims of the petitioner made in this writ petition following the due procedure of law.

Learned counsel, Mr. Krishna Das Poddar appearing for the petitioner refers to **Rule 174** of the **Boarder Security Force Rules, 1969** and submits that the Court's of Enquiry is there to investigate into any matter, which, *inter alia*, includes all injuries sustained

by persons subject to the act which are rightly to cause full or partial disability. The Court shall in such case determine whether such injuries were attributable to service or not.

In view of the said specific codified provisions being there under the said **Rule of 1969**, this Court is of the considered view that the jurisdictional authority being the relevant Court of Enquiry must hold an enquiry in the matter and shall come to its logical conclusion strictly in accordance with law.

Mr. Udayan Chakraborty, learned Senior Advocate with Mr. Anjan Chakraborty, learned counsel appearing for respondent nos. 1 to 5 also referred to the **Central Civil Services (Extraordinary Pension) Rules, 2023** and submits that while conducting the necessary enquiry, the Court of Enquiry must also take into consideration of the relevant provisions from the said **2023 Rules**.

In view of the above, the following directions are passed:-

- (i) The petitioner shall forthwith serve a copy of the complete set of writ petition, the report in the form of affidavit filed by the respondent no.4 and the exception thereto in the form of affidavit filed by the petitioner along with a copy of today's order and the

order dated **April 10, 2025** on the **respondent no.4;**

- (ii) The respondent no.4 positively within a period of **one week** from the date of communication of this order along with the articles mentioned above shall transmit and make over the same before the jurisdictional Court of Enquiry;
- (iii) The jurisdictional Court of Enquiry then upon issuing a prior notice of hearing to the petitioner and granting her opportunity of hearing, on the basis of the existing materials on record along with the said writ petition, report and the exception thereto to be served upon him, shall decide the issue by passing a reasoned order strictly in accordance with law;
- (iv) It is needless to mention that the petitioner shall be entitled to participate in the hearing along with her duly authorised representative before the jurisdictional Court of Enquiry;
- (v) The entire exercise shall be carried out and completed by the jurisdictional Court of Enquiry positively within a period of **three**

months from the date of receiving the records from the respondent no.4;

- (vi) In the event, the reasoned order goes in favour of the petitioner according to her claim made in the writ petition, then the necessary and consequential directions shall also be made by the jurisdictional Court of Enquiry;
- (vii) In the event, the reasoned order goes in favour of the petitioner, the relevant authorities and/or jurisdictional authorities shall give an immediate effect there to in accordance with law but positively within a period of **two months** from the date of the said reasoned order to be passed by the jurisdictional Court of Enquiry;
- (viii) It is needless to mention if any prescribed format is there for filing any application before the jurisdictional Court of Enquiry, the petitioner shall be informed accordingly by the office of the jurisdictional Court of Enquiry forthwith and the petitioner shall immediately comply with the same but the application shall not travel beyond the scope of the existing materials and beyond the claim made in the writ petition.

It is also made clear that this order shall not create any right or equity in favour of the petitioner, if the petitioner does not succeed to her claim either in whole or in part before the jurisdictional Court of Enquiry strictly in accordance with law.

It is made clear that, in so far as the compensation claimed in **prayer (d)** to the writ petition, it is totally left open for adjudication before the jurisdictional Court of Enquiry in accordance with law and this Court does not express any opinion or view in this regard.

Further, the appropriate authority shall also take a decision on the self contribution of **NPS** subscription deposited in **Pran**, as referred to above, positively within **three months** from the date of communication of this order and shall inform the petitioner forthwith.

With the above observations and directions, this writ petition, **WPA 31041 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)