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FMA 157 of 2025
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IA No. CAN 1 of 2025
Purna Rani Chattopadhyay
- Versus -
State of West Bengal & Others

Mr. Haradhan Mondal
.... For the Appellant.
Mr. Avishek Prasad
..... For the State/Respondents.

The present appeal has been preferred challenging the order dated 18th November, 2024 passed by the learned single Judge in the writ petition, being WPA 21276 of 2023 which was preferred *inter alia* praying for issuance of necessary direction upon the respondents to disburse the benefits of family pension.

The following facts are not in dispute. Sannyasi Kumar Chattopadhyay (hereinafter referred to as Sannyasi), the husband of the appellant, was an Assistant Teacher of Ramkrishnapally Vivekananda Vidyapith (in short, the said school). He opted for Contributory Provident Fund (in short, CPF) under the Pension Scheme. He thereafter died-in-harness on 13th November, 2003. During his service tenure he also opted for the benefits of Revision of Pay and Allowances Rules, 1990 [in short, 1990 ROPA] as well as Revision of Pay and Allowances Rules, 1998 [in short, 1998 ROPA]. After Sannyasi expired, the appellant prayed for disbursement of the benefits of family pension in terms of the judgment

delivered in the case of *District Inspector of Schools (SE), Kolkata – vs. –Abhijit Baidya*, reported in (2013) 3 CHN 711. In response to the appellant's prayer, the Headmaster of the said school issued a letter dated 5th April, 2004 observing *inter alia* that as no option was submitted for conversion from CPF to General Provident Fund (in short, GPF) by Sannyasi, the appellant is not entitled to the benefits of family pension. Aggrieved thereby, the appellant preferred the writ petition which was dismissed by the order impugned in the present appeal observing *inter alia* that as Sannyasi did not switch over from CPF to GPF scheme which was provided *vide* judgment dated 16th July, 2013 in the case of *Abhijit Baidya (supra)*, the appellant is not entitled to the benefits of family pension, moreso when she has approached the authorities belatedly.

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

The issue involved in the present appeal is no longer *res integra* in view of the judgment delivered in the case of *District Inspector of Schools (SE), Kolkata –vs- Abhijit Baidya*, reported in (2013) 3 CHN 711. It has also been decided by a co-ordinate Bench of this Court in an appeal being *FMA 620 of 2018* that the widow of a deceased teacher would be entitled to family pension on account of the service of her husband, who opted for revised scale under the Revision of Pay and Allowance Rules, 1990,

upon refund of the Government share of CPF. Similar order was also passed in the case of *State of West Bengal & Others Vs. Smt. Jharna Bhattacharya [MAT 1598 of 2015]*.

In the said conspectus, the learned single Judge erred in law in rejecting the appellant's prayer and accordingly, the said order is set aside.

The respondents, particularly the respondent no.3, shall calculate and communicate the amount to be refunded by the appellant for disbursement of the benefits of family pension within a period of three weeks from the date of communication of this order.

It is made clear that the school authorities shall extend all cooperation to the respondent no.3 towards calculation of the amount to be refunded to the Government along with interest.

Upon such communication of the amount to be refunded, the appellant shall deposit the same within a period of three weeks thereafter. In the event such refund is made, the respondents shall disburse the benefits of family pension to the appellant within a period of four weeks thereafter.

With the above observations and directions, 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.)