

**24.03.
2026**

Ct. No. 24

Ab

WPA 3992 of 2026

Dr. Krishna Ghosh

Vs.

The State of West Bengal and others.

**Mr. Nayan Chand Bihani,
Mr. Soumya Mukherjee.**

... for the petitioner.

**Mr. Susavan Sengupta,
Mr. Subir Pal.**

... for the State.

1. The petitioner's grievance is that though entitled to receive House Rent Allowance in view of her employment as an Associate Professor in Bengali with the respondent no. 9 since July 18, 2008, she has not received such allowance.
2. The ostensible ground for non-receipt of the allowance is that the spouse of the petitioner is also employed in a Central Government post, namely, as an Assistant Teacher in the Bani Mandir Railway Higher Secondary School, Siliguri, Darjeeling since November 12, 2009. The petitioner's place of work as an Associate Professor in Bengali somewhere in Panihati is approximately 560 kilometers away from the place of work of her spouse.
3. In support of such contention, Mr. Bihani, learned Senior Advocate appearing on behalf of the petitioner, has placed reliance on a decision of the Co-ordinate Bench reported in WPA 21525(W) of 2014 (Dr. Paromita Majumdar vs. The State of West

Bengal & Ors.). The said judgment has dealt with a situation where the petitioner therein was employed in an aided educational institutional at Kolkata and her husband was employed under the Central Government at New Delhi.

4. In such a factual scenario, the Court directed the State to release the house rent allowance in favour of the petitioner. The relevant parts of the said judgment are quoted below:

“The undisputed facts are that the petitioner is engaged in an approved educational institution and is residing at Kolkata. The petitioner’s husband is employed under the Central Government and he is residing at New Delhi. Both the places of residence are separated by a distance of more than 1300 kms. The petitioner’s claimed towards full HRA was considered and recommended by the Governing Body of the said college. The judgment delivered in the case of Latika Sahu (Supra) has already been complied with and the appellant therein has been disbursed the benefits and the State Government did not choose to prefer any appeal against the same.

A perusal of the judgment delivered in the case of Latika Sahu (Supra) reveals that the facts involved in the said matter are identical to the facts of the instant case. In the said matter also the claim of the petitioner/appellant was not granted in view of the provisions of para 11 of the Finance Department memorandum dated 23rd February, 2009. In the said judgment the Court considered a principle question as to whether different provisions have been made in the concerned Revision of Pay & Allowance Rules for an employee who lives with his/her spouse in same house with those where the spouse lives in separate accommodation. The said question was answered by observing that the ceiling limit of Rs. 6,000/- as specified in para 11 of the memorandum dated 23rd February, 2009 cannot be made applicable where the married employed couple are compelled to reside separately in two separate residential accommodation.

A close perusal of the said Rules of 1926 would

reveal that the same does not govern the cases where the husband and wife are residing in separate residential accommodation. Furthermore, there is no reference to the said Rules of 1926 in the finance department memoranda dated 30th November 1998 and 23rd February 2009. The memorandum dated 24th October, 2007 pertains to School Education Department and the same has no manner of application in the facts of the instant case. The primary issue involved in this matter is as to whether the petitioner is entitled to get full HRA irrespective of the fact that her husband is drawing HRA irrespective of the fact that her husband is drawing HRA from his employer. The said issue has already been answered through the judgment delivered in the case of Latika Sahu (Supra) and the Hon'ble Appeal Court had arrived at a definite finding to the effect that the ceiling of HRA can only be imposed when both the husband and wife will be in a position to share a common roof for the purpose of attending their respect places of employment. The argument of Mr. Datta and the circulars relied upon by him do not persuade this Court to take any different view.

It is well settle that a Bench of lesser quorum cannot disagree or dissent from the view of the law taken by a Bench of larger quorum and that as such the judgment delivered by the Hon'ble Appeal Court is binding upon this Court."

5. He has also placed reliance on the decision rendered by two Co-ordinate Benches of this Hon'ble Court in WPA 14024 of 2023 (Sathi Hansda vs. State of West Bengal & Ors.) and WPA 28506 of 2024 (Laboni Sarkar vs. The State of West Bengal & Ors.).
6. Mr. Pal, learned Advocate appearing for the State, submits that the respondents are ready and willing to grant the house rent allowance to the petitioner upon consideration and verification of all requisite

documents.

7. I have considered and submissions of the parties and the decisions relied upon by them and the requisite documents.
8. In view of the consistent dictum of this Hon'ble Court in various decisions, I do not find any reason to take any different view, particularly since, it is quite clear that the consistent view of the Courts has been that as and when the spouses are found living too far apart, especially since it is not commutable on a daily basis, it is not possible for the spouses to take one rental accommodation, the house rent allowance is payable to both.
9. In this case as well, the distance is not commutable on a daily basis and there is no material difference from the facts in the decisions relied upon by Mr. Bihani.
10. In view thereof, the writ petition is disposed of by directing the respondent no. 6 to pass the House Rent Allowance of the petitioner with all arrears and consequential benefits for February and March 2019 and from August 2019 till March 2026. The respondent no. 6 will also pay interest at the rate of seven percent per annum to the petitioner on the arrear amount from August 2019 till January 2026.
11. With the afore-stated, the writ petition is allowed.
12. There shall, however, be no order as to costs.

13. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Reetobroto Kumar Mitra, J.)