

10-06-2026
Item No.19
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.4445 of 2023

Chandana Mondal

-vs-

The State of West Bengal & Ors.

Mr. Balailal Sahoo, adv. ...for the petitioner

Ms. Aparna Banerjee, AGP

Mr. Brijendra Pratap Singh, adv.

Mr. Arghya Chatterjee, adv. ...for the State

Mr. N.C. Bihani, sr. adv.

Mr. Soumyajit Ghosh, adv. ...for CSTC

Mr. Sourav Mondal, adv.

...for the respondent no.6

1. Communication dated August 28, 2018 by the CAO-cum-FA/Deputy CAO CSTC discontinuing the family pension received by the petitioner, being the unmarried daughter of a deceased driver of the Calcutta State Transport Corporation (CSTC), with further direction to refund the family pension erroneously paid to her is impugned in the instant writ petition.
2. Specific case of the petitioner is that the impugned order is an unreasoned one. The error which has allegedly been detected later has not been specified. Opportunity of hearing was not granted to the petitioner prior to passing the impugned order. There has been violation of the principle of natural justice.
3. It has been submitted that the petitioner is

suffering from acute financial crisis, and that she is in dire need of family pension. It has also been submitted that the petitioner would be entitled to receive family pension in accordance with the CSTC Employees' (Death-cum-Retirement Benefit) Regulations, 1990.

4. According to the petitioner, she would be entitled to family pension as her father was in the pay-roll of the Corporation on April 1, 1984, that is the date from which the regulations became effective.
5. Regulation 40 of the aforesaid regulations specifies that family pension is admissible to the members of the family of an employee who rendered at least three years service and who dies while in service. Her father was in service for more than three years and that he died-in-harness. Accordingly, she would be entitled to receive family pension.
6. It has further been contended that the petitioner would be entitled to receive the arrear family pension which was due to her mother as the same was sanctioned in her favour in the year 2003 but not disbursed till her death on June 22, 2004.
7. Prayer has been made to set aside the impugned communication with further direction to continue to pay family pension to her and also to release the arrear family pension due to her mother.
8. The aforesaid prayer and submission of the petitioner has been opposed by the learned senior advocate representing CSTC. Report in the form of affidavit filed by the Managing Director of the Corporation has been relied upon.
9. It is the case of the Corporation that the petitioner would not be entitled to family pension in accordance with the aforesaid regulations.

Regulations 2 and 6 have been specifically relied upon. The said regulations mention that the death-cum-retirement benefits are admissible to the employees who were on the pay-roll of the Corporation as on April 1, 1984 and who are on the pay-roll and remain on the pay-roll of the Corporation till the date of the actual notification of the regulations in the Official Gazette, in lieu of the benefits of the contributory provident fund provided in the CSTC Employees' (Contributory Provident Fund) Regulations including the benefit on gratuity under the Gratuity Rules of the State Government.

10. It has also been pointed out that regulation 6 requires that contributory provident fund together with interest accrued thereon being the Corporation's contributions is required to be refunded to the Corporation for obtaining family pension.
11. It has been submitted that though the regulation has been made effective from April 1, 1984, but there is a requirement of the employee remaining on the pay-roll of the Corporation on the date of actual notification of the regulation which is April 22, 1991. The father of the petitioner expired on September 15, 1985 and he was not alive on the date the regulation was published in the Official Gazette.
12. Regulation 6(4) has been relied upon and it has been submitted that as the employee expired prior to the notification being published in the Official Gazette. As there was no scope for exercising his option, it has to be taken that the employee had not exercised his option in favour of pension.

13. It has been submitted that in the absence of any legal provision permitting grant of family pension to the petitioner, the question of entitlement of the petitioner to receive family pension does not arise.
14. Upon hearing the respective submissions advanced by both the parties and on perusal of the documents placed before this Court, it is evident that the order impugned does not specify the error for which family pension of the petitioner has been discontinued. No reason has also been specified as to why the petitioner is required to refund family pension already received by her. Opportunity of hearing was also not granted to the petitioner prior to passing the impugned order resulting in financial loss and immense prejudice to her.
15. The parties have advanced their arguments at the Bar and the respondent authority has relied upon a report supported by an affidavit. Such affidavit cannot cure the defect in the impugned communication which has been passed without following the principle of natural justice.
16. It is settled law that any order which is a non-speaking one and does not disclose reasons cannot stand in the eye of law.
17. In view of the above, the impugned communication dated August 28, 2018 is set aside being a non-reasoned and non-speaking one passed contrary to the principle of natural justice. The matter is remanded back to the competent authority to take a decision afresh after providing a reasonable opportunity of hearing to the petitioner. A fresh order with reasons shall be passed and communicated to the petitioner.

18. It is made clear that the Court has not entered into the merits of the submissions advanced by either of the parties and all points are left open to be decided by the authority at the time of consideration of the case of the petitioner.
19. The writ petition stands disposed of.
20. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.
21. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]