

13.01.2026
Sl. No.18(DL)
Ct. No.14
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 4748 of 2025

**Anuva Ghswami
Versus
The State of West Bengal & Ors.**

Mr. Tarapada Das,
Mr. Mahadeb Khan

...for the Petitioner.

Mr. Mostafijur Rahaman

... for the State.

Mr. Subir Sanyal, Sr. Advocate

..*amicus curiae*.

1. By the present writ petition, the petitioner seeks for quashing, cancellation and/or setting aside of the order dated 17th January, 2025 passed by the District Inspector of Schools (Primary Education), South 24-Parganas, respondent No.4 rejecting the prayer of the petitioner for exercising option for switching over from Contributory Provident Fund cum Gratuity Scheme to General Provident Fund and disentitling the petitioner to family pension.
2. The petitioner contends that her father Biresh Chandra Goswami was the Head Teacher of Madhusudan Chak Free Primary School, School No.690, Mathurapur South Circle at Madhusudan Chalk, P.O. Madhusudan Chalk, District-South 24-Parganas. The petitioner's father served as an approved Head Teacher with effect from 2nd September, 1945. The service of the

petitioner's father was extended with effect from 19th November, 1988 to 18th November, 1989 in the 1st term. The father of the petitioner died on 31st May, 1991 while in extended service during 2nd term. On the application of the mother of the petitioner, the Pension Payment Order was issued on 12th September, 2002 only with gratuity amount of Rs.10,775/-. However, no family pension was granted. The mother of the petitioner, namely Durgesh Nandini Goswami died on 3rd December, 2005 leaving behind her two unmarried daughters, namely Anuva Goswami (the petitioner herein) and another elder daughter, namely Prativa Goswami and two sons, namely Ramananda Goswami and Anup Kumar Goswami. The petitioner is an unmarried daughter, who is fully dependent on her parents. On 17th December, 2024, the petitioner made an application before the District Inspector of Schools (Primary Education), South 24-Parganas, respondent No.4 with a prayer for sanction of family pension in view of Government Circular dated 13th April, 2010. The said prayer of the petitioner was rejected by the District Inspector of Schools (Primary Education), South 24-Parganas *vide* letter dated 17th January, 2025. Being aggrieved and dissatisfied with such action of the respondent authorities, the petitioner has preferred the present writ petition.

3. Mr. Tarapada Das, learned Advocate for the petitioner submits that the father of the petitioner was not in a

position to exercise option for switching over from Contributory Provide Fund to General Provident Fund, since at that point of time the judgment of this Court was not passed in *Pramila Behara versus The State of West Bengal (In Re: FMA 864 of 2022)*. He seeks for setting aside of the impugned order dated 17th January, 2025 passed by the District Inspector of Schools (Primary Education), South 24-Parganas, respondent No.4.

4. Mr. Subir Sanyal, learned Senior Advocate appearing as *amicus curiae* on the request of this Court, submits that since from the pleadings it is found that the service of the petitioner's father was extended from time to time, it can be presumed that he did not exercise option for switching over from CPF to GPF. Without the option of switching over being exercised, the unmarried daughter cannot exercise such option to avail the benefit of family pension.
5. Mr. Mostafijur Rahaman, learned Advocate for the State submits that the employee did not exercise option to switch over from CPF to GPF. Therefore, there is no scope to exercise such option by his successor-in-interest.
6. In *RVW 68 of 2016 (The State of West Bengal & Ors. Versus Smt. Jharna Bhattacharya & Ors.)*, it is held that an employee, who has opted for revised pay scale under ROPA, 1990, becomes entitled to pension and gratuity by operation of para 17 of ROPA 1990. It was

not necessary for him to exercise fresh option as per Memo dated 16th December, 1991, which was applicable to employees who had not opted for ROPA 1990. Admittedly, the father of the petitioner, who died on 31st May, 1991, has not exercised option under ROPA, 1990, which was introduced vide Memorandum No.4056-F dated 25th April, 1990. The service of the petitioner's father as per the contention in the writ petition was extended from time to time till he expired on 31st May, 1991 during his extended 2nd term. The presumption that option of switching over was not exercised by the employee is also evident from the fact that the employee chose for extension of his service, as has been rightly argued by Mr. Sanyal, learned Senior Advocate and *amicus curiae*. Such being the position, the unmarried daughter cannot exercise option for switching over from CPF to GPF.

7. Although it has been strenuously argued on behalf of the petitioner that there was no scope to switch over option of the teacher concerned as he was dead on the date of judgment relying on *Pramila Behara (supra)*, yet the facts in the said appeal is distinguishable from the case at hand. In the said appeal, the petitioner was the widow of the deceased primary school teacher who claimed benefit of the notification of the School Education Department, Government of West Bengal of 13th June, 2014. The husband of the petitioner exercised option under ROPA 1990 and ROPA 1998.

The decision in *Pramila Behara (supra)* as such does not apply to fact of this case.

8. In light of the above, this Court finds that the impugned order dated 17th January, 2025 does not call for any interference.
9. Accordingly, the writ petition being **WPA 4748 of 2025** stands dismissed.
10. Before parting, this Court acknowledges the able assistance extended by Mr. Sanyal, learned Senior Advocate and *amicus curiae*.
11. Interim order, if any, stands vacated.
12. All connected applications, if any, stand disposed of.
13. There shall be no order as to costs.
14. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
15. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)