

05.05.2026
Sl. No.17
Ct. No.14
ss

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

WPA 5426 of 2026

**Rekha Ghosh
Vs.
State of West Bengal & ors.**

Ms. Bratati Dutta

...for the Petitioner.

Mr. Pannalal Bandyopadhyay
Ms. Molly Saha

...for the State.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Instruction furnished by the District Inspector of Schools (Primary Education), Paschim Medinipur dated 16th March, 2026 is taken on record.
3. By the present writ petition, the petitioner seeks permission to deposit the employer's share in Contributory Provident Fund with interest and additional interest in terms of Government scheme in order to avail the benefit of family pension.
4. The petitioner contends that her husband, late Biswanath Ghosh was appointed as Assistant Teacher of Gobindapur Primary School under Anandapur Circle, District Paschim Medinipur. The petitioner's husband died-in-harness on 12th October, 1989. The husband of the petitioner did not have the scope to exercise option under ROPA-1990. However, the petitioner's husband

was in service on 1st January, 1986, i.e., the date of effect of ROPA-1990 and as such, he was covered under ROPA-1990. The petitioner being the widow of the deceased employee intends to deposit the Government's share of contributory provident fund in order to avail the benefit of family pension. Hence this writ petition.

5. Ms. Bratati Dutta, learned Advocate appearing for the petitioner submits that since the husband of the petitioner was in service on the date of effect of ROPA-1990, he was covered under ROPA-1990. In such event, a fresh option from the petitioner would not be required. However, the grant of family pension will be subject to refund of the Government's share of Contributory Provident Fund together with interest and additional interest. To buttress her contention, she relies on a decision of the Coordinate Bench of this Hon'ble Court passed in ***Jyotsna Mahata versus The State of West Bengal & ors. (In re: WPA 25476 of 2023)***.
6. On the contrary, Ms. Molly Saha, learned Advocate appearing for the State submits that the husband of the petitioner died-in-harness on 12th October, 1989 and after his death ROPA-1990 has come into effect. Therefore, since the option under ROPA-1990 has not been exercised by the husband of the petitioner, the petitioner is not entitled to exercise such option upon deposit of Government share of Contributory Provident Fund. She seeks for dismissal of the writ petition.

7. It is not in dispute that the pension payment order has been issued in favour of the petitioner giving effect of ROPA-1990. Further as the husband of petitioner died-in-harness on 12th October, 1989 and was in service on the date, i.e. 1st January, 1986 when the ROPA-1990 was given effect to, hence he was covered under ROPA 1990.
8. In *Jyotsna Mahata (supra)* a Co-ordinate Bench of this Court, in a case where the concerned employee died-in-harness in October 1986, after considering decision of full Bench and Division Bench observed as follows:-

“12.The petitioner who is the widow of the employee Jitendra Nath Mahata, who died-in-harness in October, 1986, received quantum of gratuity in terms of ROPA 1990, i.e., for service upto the age of 60 Years.

13. The petitioner’s husband was therefore covered under ROPA 1990 and automatically entitled pension. There was no need for any fresh exercise of option by the petitioner.”

9. Bearing in mind the aforesaid observations in *Jyotsna Mahata (supra)*, this Court is of the view that the petitioner is entitled to deposit the Government’s share of Contributory Provident Fund with interest and additional interest in order to avail the benefit of family pension.
10. Accordingly, the respondent No.4, District Inspector of Schools (Primary Education), Paschim Medinipur is directed to calculate the amount required to be refunded by the petitioner to get the benefit of family pension. Upon deposit of the said amount, the said respondent being the pension sanctioning authority shall verify the pension papers of the petitioner’s husband and sent the

same to the respondent No.3, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal for further steps to be taken in accordance with law for issuance of the Pension Payment Order in favour of the petitioner.

11. The respondent Nos.4 and 3 shall complete the respective exercise as expeditiously as possible and the pension shall be paid to the petitioner on and from the next date of death of the petitioner's husband.
12. With the above direction, the writ petition being **WPA 5426 of 2026** stands disposed of.
13. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
14. Interim order, if any, stands vacated.
15. All connected applications, if any, stand disposed of.
16. There shall be no order as to costs.
17. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
18. 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.)