

05.01.2026
Sl. No.14
Ct. No.14
gd

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

WPA/11282/2025
RISHITA PATRA
VS
STATE OF WEST BENGAL AND ORS.

Mr. Kingshuk Mondal
Mr. Partha Sarathi Mondal
Ms. Riya Paul
Ms. Tithi Sarkar

...for the Petitioner.

Ms. Munmun Tewary
Mr. Sutanu Chakrabarti

...for the State.

Mr. B.P. Vaista
Mr. Gourav Das

...for DPSC, South 24-Parganas.

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. Report dated 2nd July, 2025 filed by the State is also taken on record.
3. Despite service none appears on behalf of the respondent no.6.
4. By the present writ petition, the petitioner seeks for direction upon respondent authorities for disbursement of family pension in her favour and also for consideration of her representation dated 25th April, 2025.
5. The petitioner contends that her husband was a Teacher-in-Charge of Kaylapara F P School at Sagar, North Circle, South 24-Parganas. The husband of the

petitioner died due to cancer on 6th December, 2023 after rendering qualifying service. The husband left behind the petitioner and one son as his legal heirs. On 25th April, 2025 the petitioner made a representation before the concerned authority for grant of family pension in her favour. However, the same has not yet been granted. Hence, this writ petition.

6. Mr. Kingshuk Mondal, learned Advocate for the petitioner submits that the petitioner is the first wife of the deceased employee. The husband of the petitioner married one Anushri Patra who is the second wife. By the order of this court the said Anushri Patra has been impleaded in the present proceedings and notice has been served upon her. As per the decision of Hon'ble Supreme Court in ***Rameshwari Devi versus State of Bihar & Ors.*** reported in ***(2002) 2 SCC 431*** in the circumstances as above, the State authority has to hold an enquiry prior to disbursement of the terminal benefit and family pension. The said enquiry is still pending. Petitioner being the first wife is entitled to family pension. To buttress his contention he relies on the decision of this court passed in ***Tripti Thakur v. The State of West Bengal & Ors. (Re: WPA 3589 of 2024)***. He informs the Court that a matrimonial suit was instituted by the deceased husband and the petitioner jointly before the learned Additional District

Judge, Kakdwip, South 24-Parganas under Section 13(B) of the Hindu Marriage Act, 1955 for divorce on mutual consent being MAT Suit No.199 of 2020. However, the said suit was dismissed for non-prosecution on 14th July, 2022. He seeks for necessary direction upon the respondent No.5, the District Inspector of Schools (Primary Education), South 24-Parganas to conduct and conclude the enquiry at the earliest and take appropriate steps for disbursement of the family pension and terminal benefits in favour of the petitioner.

7. Ms. Munmun Tewary, learned Advocate appearing for the State submits that the enquiry has already been proceeded with. The petitioner has been directed to produce the copy of the final judgment of the MAT Suit and the legal heir certificate. However, the same has not yet been produce which is relevant for the enquiry. She also submits that the State authority is obligated to conclude enquiry within a specific period. She also indicates that there is a female child born out of the second marriage.
8. Mr. Gourav Das, learned advocate for DPSC, South 24-Parganas also submits that enquiry be directed to be conducted with a direction upon the parties to cooperate in the said enquiry.
9. Despite service, none appears on behalf of added respondent no.6, Anushri Patra.

10. From the facts noted hereinabove, it reveals that the deceased employee during his lifetime married twice. The petitioner is the first wife and the added respondent no.6, Anushri Patra, is the second wife. Dispute has arisen as to which of the party is entitled to family pension and terminal benefits.

11. In *Rameshwari Devi (supra)*, the Hon'ble Supreme Court observed as follows:

“When there are two claimants to the pensionary benefits of a deceased employee and there is no nomination wherever required the State Government has to hold an inquiry as to the rightful claimant. Disbursement of pension cannot wait till a civil Court pronounces upon the respective rights of the parties. That would certainly be a long drawn affair. The doors of civil Courts are always open to any party after and even before a decision is reached by the State Government as to who is entitled to pensionary benefits. Of Course, inquiry conducted by the employer cannot be a sham affair and it could also not be arbitrary. The decision has to be taken in a bona fide, reasonable and rational manner.”

12. It is not in dispute that an enquiry has already been undertaken by the State respondents.

13. The law is well settled that the family pension does not form part of the estate while the terminal benefits form part of the estate of the deceased employee (See ***Nitu versus Sheela Rani & Ors.*** reported in ***AIR 2016 SC 4552*** and ***Violet Issac & Ors. versus Union of India & Ors.*** reported in ***(1991) 1 SCC 725***). The aforesaid aspect has also been observed by this Court in *Tripti Thakur (supra)*.

14. In the light of the proposition laid down by the Hon'ble Supreme Court in *Rameshwari Devi (supra)* the respondent No.5, the District Inspector of Schools (Primary Education), South 24-Parganas is directed to

conduct and conclude the enquiry by giving reasonable opportunity of hearing to the petitioner as well as the added respondent no.6, Anushri Patra, for establishing their respective claim in respect of the pensionary benefits of the deceased employee.

15. So far as the terminal benefits of the deceased employee are concerned once it is established that the deceased employee had contracted two marriages then the children out of the second wife will be entitled to a portion of the terminal benefits/estate of the deceased but not the second wife. The first wife shall be entitled to family pension.
16. Only after conclusion of the enquiry the parties will be free to claim the terminal benefit and the family pension.
17. Parties are directed to cooperate in the enquiry to be conducted by the respondent No.5, the District Inspector of Schools (Primary Education), South 24-Parganas.
18. The entire exercise should be concluded by the respondent No.5, the District Inspector of Schools (Primary Education), South 24-Parganas within a period of four months from the date of communication of this order.
19. Learned advocate for the petitioner is directed to communicate this order to the respondent No.5, the District Inspector of Schools (Primary Education), South 24-Parganas.

20. With the above direction and observation, the writ petition being **WPA 11282 of 2025** stands disposed of.
21. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
22. Interim order, if any, stands vacated.
23. All connected applications, if any, stand disposed of.
24. There shall be no order as to costs.
25. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
26. 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.)