17.11.2026
Item No. 45
Ct. No. 45
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18067 of 2026

Sk. Jahida Begum
vs.
State of West Bengal & ors.

Ms. Sabita Khutia Bhunya
Ms. Arpita Saha
... for the petitioner

Mr. Pradip Paul
Mr. Tarun Kumar Poddar
... for the State

1. Affidavit of service filed on behalf of the petitioner is taken on record.

2. By the present writ petition, the petitioner seeks permission to deposit Government's share of Contributory Provident Fund with interest and additional interest in order to avail the benefit of family pension.

3. The petitioner contends that her husband Late Sk. Md. Mainuddin was an Assistant Teacher of Khaijapur Primary School, District Howrah, who retired from service on superannuation on 31st October, 1994 as a Head Teacher. The husband of the petitioner died on 11th September, 2004. The husband of the petitioner exercised option under ROPA, 1990 and ROPA, 1998. However, the pension payment order was issued without any pension or family pension. The petitioner being the widow of the deceased employee seeks

permission to refund the Government's share of contributory provident fund to avail the benefit of the family pension.

4. Ms. Arpita Saha, learned Advocate appearing for the petitioner submits that since the husband of the petitioner exercised option under ROPA 1990 and ROPA 1998 a fresh option 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 Hon'ble Division Bench of this Court passed in ***State of West Bengal versus Sefali Jana (In Re: FMA 620 of 2022)*** as well as a Coordinate Bench of this Court in ***Santilata Mahato versus The State of West Bengal & Ors. (In Re: WPA 16272 of 2025***).

5. On the contrary, Mr. Pradip Paul, learned advocate representing the State submits that the writ petition has been filed belatedly seeking for relief and as such, the same is not maintainable.

6. At the outset, it is found that there is delay in making such claim. However, delay *per se* cannot defeat the valuable right of the petitioner. Relief may be granted to the writ petitioner in spite of the delay if it does not affect the right of third parties. (see: ***Union of India vs. Tarsem Singh*** reported in ***(2008) 3 SCC 648***).

7. In ***Pramila Behara versus The State of West Bengal (In Re: FMA 864 of 2022)*** the Hon'ble

Division Bench has allowed the widow to deposit the employer's share of Contributory Provident Fund with interest and additional interest.

8. This Court in similar circumstances in case of ***Safera Khatun -versus- State of West Bengal & ors. (In Re: WPA 21780 of 2025)*** has also permitted the widow of the deceased teacher to deposit the employer's share in the contributory provident fund together with interest.

9. In line with the above decisions, the respondent no. 4, the District Inspector of Schools (P.E.), Howrah is directed to calculate the amount together with interest and additional interest to be refunded by the petitioner to avail the benefit of family pension. Upon deposit of the said amount, respondent no. 4, the District Inspector of Schools (P.E.), Howrah being the Pension Sanctioning Authority, shall verify the pension papers of the petitioner and shall send the same to the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, respondent no. 3 herein for further steps to be taken in accordance with law for issuance of pension payment order in favour of the petitioner.

10. Both respondent nos. 3 and 4 shall comply with the respective directions in this regard as expeditiously as possible. The pension shall be paid to the petitioner on and from the date of superannuation of the petitioner's husband. Arrears be paid to the petitioner in accordance with law.

11. With the above directions, the writ petition being ***WPA 18067 of 2026*** stands disposed of.
12. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
13. Consequently, connected applications, if any, also stand disposed of.
14. Interim orders, if any, stand vacated.
15. There will be no order as to costs.
16. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)