

27.01.2026
Item No. 13
Ct. No. 14
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**WPA 20567 of 2025
Smt. Rekha Manna
vs.
State of West Bengal & ors.**

Mr. Uttam Kumar Bhattacharyya
Mr. Kaustav Mishra

... for the petitioner

Ms. Renuka Patrick

... for the State

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. On the prayer of the learned advocate appearing for the petitioner, leave is granted to file supplementary affidavit.
3. Supplementary affidavit filed by the petitioner is taken on record.
4. Report filed by respondent no. 5, the District Inspector of Schools (P.E.), Paschim Medinipur is taken on record.
5. By the present writ petition, the petitioner seeks for direction upon the respondent authorities for grant of family pension after change of the option from Contributory Provident Fund to General Provident Fund upon setting aside the impugned order dated 21st June, 2016 passed by respondent no. 5, the District Inspector of Schools (P.E.), Paschim Medinipur and respondent no. 3, the Deputy Director, School

Education Department, Government of West Bengal dated 5th March, 2024 rejecting the prayer of the petitioner for grant of family pension.

6. The petitioner contends that her husband namely Ramkrishna Manna was a Head Teacher in Mashumpur Primary School, Village Mashumpur, District Paschim Medinipur with effect from 1st April, 1974. The husband of the petitioner retired from service on superannuation on 31st October, 2013 and died on 17th March, 2014. The petitioner is the widow of the deceased employee. During his service tenure, the husband of the petitioner opted for revised scale of pay in terms of ROPA 1990 and ROPA 1998. The Pension Payment Order was issued in favour of the petitioner's husband on 25th June, 2014 with gratuity only and no pension was granted. The petitioner made a representation on 11th May, 2016 before the authority concerned for grant of family pension upon refund of the employer's share of Contributory Provident Fund together with interest and additional interest. Such prayer of the petitioner was rejected by the impugned order dated 21st June, 2016 passed by respondent no. 5, the District Inspector of Schools (P.E.), Paschim Medinipur.
7. Subsequently, the petitioner again made an application on 29th August, 2023 for grant of family pension with a similar prayer which was rejected on 5th March, 2024 by respondent no. 3, the Deputy

Director, School Education Department, Government of West Bengal. Both the orders are challenged in the present writ petition.

8. Mr. Uttam Kumar Bhattacharyya, learned advocate appearing for the petitioner submits that the husband of the petitioner during his lifetime exercised his option under ROPA 1990 and ROPA 1998. In the event, such option is exercised, the petitioner being the widow of the deceased employee, is not required to exercise a fresh option, however, in order to get the benefit of pension is obliged to refund the Government's Share of Contribution in her husband's provident fund. The petitioner is willing to refund the amount to be calculated by respondent no. 5, the District Inspector of Schools (P.E.), Paschim Medinipur. In support of his contention, he relies on a decision of the Hon'ble Division Bench of this Court in the case of ***State of West Bengal & Ors. versus Sefali Jana & ors. (Re: FMA 620 of 2018)***. The earlier order of rejection of the prayer of the petitioner by the respondent authorities in the year 2016 could not be challenged as the judgment of the Hon'ble Division Bench in *Sefali Jana (supra)* was passed subsequently on 24th August, 2023. He also relies upon the decision of this Court in the case of ***Gouri Adhikari versus State of West Bengal & ors. (Re: WPA 23480 of 2024)***. He seeks for setting aside of the impugned order and permit the petitioner to

deposit the employer's share in Contributory Provident Fund in order to avail the benefit of family pension.

9. Ms. Renuka Patrick, learned advocate representing the State respondent submit that since the petitioner's husband being the employee, did not opt to switch over from Contributory Provident Fund Scheme to General Provident Fund, the spouse cannot give option for switching over. Therefore, the impugned order dated 21st June, 2016 passed by respondent no. 5, the District Inspector of Schools (P.E.), Paschim Medinipur and respondent no. 3, the Deputy Director, School Education Department should not be interfered with.
10. Having heard the learned advocate for the respective parties, the only issue which falls for consideration is whether the petitioner being the widow of deceased employee is entitled to family pension in the given circumstances.
11. It is not in dispute that the husband of petitioner opted for revised scale of pay under ROPA 1990 and ROPA 1998.
12. In *Sefali Jana (supra)*, this Court in similar circumstances observed as follows:

"3. The brief facts relevant for the purpose of consideration of this appeal are that the husbands of each of the petitioners were teachers under the Howrah District Primary School Council. Some of the teachers died in harness and some died after the age of superannuation. Each of the teachers concerned opted for revised scale under ROPA 1990 and become entitled to pension and gratuity by virtue of Para 17 of ROPA 1990.

4. By introduction of an amendment to Para 17 of ROPA 1990 and introducing Sub-para 2 on 16th May, 2007 the State required such employees to exercise option afresh for switching over from PF to pension cum gratuity scheme.

Consequently, Para 13 of ROPA 1998 also came to be amended in effect from 13th July, 1999. The fresh option for pension notwithstanding acceptance under the original Section 17 was required to bring the employees under the DCRB Scheme of the State.

5. The requirement of exercise of fresh options and amendment of Para 17 of ROPA 1990 and Para 13 of ROPA 1998 was held to be bad in law, illegal and arbitrary in the said Full Bench decision *Abhijit Baidya (supra)*.

6. Pursuant to the three-month period granted in Para 76 of the *Abhijit Baidya (supra)* decision to all teachers in the State, the writ petitioners/widows of the said teachers, went to the authorities to exercise options for pension on account of the service of their deceased husbands. The authorities refused to entertain the writ petitioners and turned them down. The State held that the *Abhijit Baidya (supra)* decision and the notification issued by the State pursuant thereto, applied only to the living teachers and not to their family members.

7. It is a well-settled proposition of service jurisprudence that pension includes family pension. The pension is aimed at securing the family particularly the widow and persons lawfully entitled to benefit from the service of a deceased employee.

8. The respondents are therefore entitled to family pension on account of their deceased husbands/employees. They shall exercise option therefore. The petitioners are entitled on the ground that the husbands had opted for to come under Para 17 of ROPA 1990 and also in view of the dicta in the decision of *Abhijit Baidya (supra)*.”

13. In view of the aforesaid observations of the Hon’ble Division Bench, there is no requirement of giving fresh options for switching over from Contributory Provident Fund to Pension cum Gratuity Scheme since petitioner’s husband already opted for revised scale under ROPA 1990 and ROPA 1998.
14. Both the impugned orders have been passed rejecting the prayer of the petitioner on the ground that there is no existence of provision of family pension for living the widow of the deceased employee/teacher who have opted for Contributory Provident Fund-cum-Gratuity Scheme. In view of the decision in *Sefali Jana (supra)*, such contention is not sustainable in law. Accordingly, the impugned orders dated 21st June, 2016 passed by respondent no.5, District Inspector of

Schools (P.E.), Paschim Medinipur and order dated 5th March, 2024 of respondent no. 3, Deputy Director, School Education Department stand set aside.

15. In the aforesaid backdrop, respondent no.5, the District Inspector of Schools (P.E.), Paschim Medinipur is directed to calculate the amount required to be refunded by the petitioner to get the benefit of pension and upon deposit of the said amount, the respondent being the pension sanctioning authority, shall verify the pension papers of the petitioner and send the same to respondent no. 4, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal for further steps to be taken for issuance of pension in favour of the petitioner within a period of eight weeks from the date of communication of this order.
16. Pension shall be paid to the petitioner on and from date following the date of superannuation of petitioner's husband.
17. Learned advocate for the petitioner is directed to communicate this order to respondent no. 4, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal and respondent no.5, District Inspector of Schools (P.E.), Paschim Medinipur for necessary action.
18. With the above directions, the writ petition being **WPA 20567 of 2025** stands disposed of.

19. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
20. Consequently, connected applications, if any, also stand disposed of.
21. Interim orders, if any, stand vacated.
22. There will be no order as to costs.
23. 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.)