

07.04.2026
Sl. No.15(DL)
Ct. No.14
srm

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

W.P.A. No. 21496 of 2025

Swadesh Ranjan Saha

Versus

The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Ankita Ghosh,
Mr. Naman Shah

...for the Petitioner.

Ms. Mohuya Dutta Biswas
Ms. Ranjana Har Chowdhury

...for the State.

1. Statement of facts filed by the State respondents furnished by the District Inspector of Schools (Primary Education), Dakshin Dinajpur dated 24th September, 2025 is taken on record. Copy served.
2. By the present writ petition, the petitioner seeks direction upon the respondent authorities for release of pension and other retiral benefits upon consideration of the representation of the petitioner dated 15th November, 2024.
3. The petitioner contends that he was an Assistant Teacher of Tapan F.P. School, P.O. Tapan under Tapan Circle. The petitioner retired from service on superannuation on 30th April, 2024. The petitioner applied for his retiral benefit including pension and gratuity *vide* application dated 2nd July, 2024 before

the respondent authorities through online portal. The pension and other retiral benefit have not yet been disbursed to the petitioner as the authorities raised objection that the application of the petitioner is not accompanied with a joint photograph of him with his wife. The petitioner was married to one Pompa Nag under the Special Marriage Act in the year 2012 and has been living separately from his wife since long, for such reason he could not provide the joint photograph. Hence, this writ petition seeking for appropriate orders.

4. Mr. Firdous Samim, learned Advocate for the petitioner submits that his client and his wife are living separately for last ten years and they are issueless. Due to such reasons the petitioner is unable to provide joint photograph before the concerned authorities for processing his pension papers. Submission of joint photograph is a formal procedure and thus, non-submission of the same cannot deprive the petitioner of his rightful claim to the grant of pension and other retiral benefits in his favour. He seeks for appropriate direction upon the respondent authorities to process the pension papers of the petitioner at the earliest.
5. Ms. Mohuya Dutta Biswas, learned Advocate for the State submits that joint photograph of the petitioner and his wife is necessary for processing the pension papers. In the absence of the same the authorities are

unable to take steps for release of pension and other retiral benefits to the petitioner.

6. Having heard the learned advocate for the respective parties, the only issue which is to be decided is whether in the facts and circumstances of the present case, respondent authority are justified in refusing to process the pension papers of the petitioner.
7. Admittedly, the petitioner could not submit attested joint photograph with his wife as she is living separately from the petitioner since long. The objection in serial No.6 at page 22 of the writ petition also records the said fact. It appears that such objection is precisely technical in nature. Save and except the aforesaid objection, there are no other objections raised regarding entitlement of the petitioner to pension and other retiral benefits. Now the question which arises at this juncture is that can the pension and other retiral benefit of the petitioner be withheld on such technical ground.
8. In order to examine the aforesaid issue, it would be profitable to reproduce the observation of Hon'ble Supreme Court in ***D.S. Nakara & Ors. versus Union of India*** reported in ***(1983) 1 SCC 305***, observed as hereunder:-

"31. From the discussion three things emerge:(i) that pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer and that it creates a vested right subject to 1972 Rules which are statutory in character because they are

enacted in exercise of powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution;(II) that the pension is not an ex gratia payment but it is a payment for the past service rendered; and (iii) it is a social welfare measure rendering socio-economic justice to those who in the hey-day of their life ceaselessly toiled for the employer on an assurance that in their old age they would not be left in lurch. It must also be noticed that the quantum of pension is a certain percentage correlated to the average emoluments drawn during last three years of service reduced to 10 months under liberalised pension scheme. Its payment is dependent upon an additional condition of impeccable behaviour even subsequent to retirement, that is, since the cessation of the contract of service and that it can be reduced or withdrawn as a disciplinary measure."

9. The aforesaid proposition laid down by the Hon'ble Supreme Court manifest that that pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer and that it creates a vested right. The pension is not an *ex-gratia* payment but it is a payment for the past service rendered. It is a social welfare measure provided for the employee so that in their old age they would not be left in lurch. It is also well settled that pension and other post-retiral benefits accruing to a Government employee are akin to property under Article 300A of the Constitution of India which can be denied to a Government employee only by following the due process in law.

[See: State of Jharkhand & Ors. versus Jitendra Kumar Srivastava & Anr reported in (2013) 12 SCC 210].

10. Rule 19 of the West Bengal Primary Education (Employees' Death-cum-Retirement Benefit) Rules, 2009 does not provide any grounds for withholding of pension due to non-submission of joint photograph with the spouse. Therefore, denying the pension and post-retiral benefits to the writ petitioner by the concerned authority on mere technical grounds like for not providing a joint photograph with his wife is not proper.
11. In view of the above, the respondent No.6, the Chairman, District Primary School Council, Dakshin Dinajpur and the respondent No.7, the District Inspector of Schools (P.E.), Dakshin Dinajpur are directed to process the pension papers of the petitioner and forward the same to the respondent No.8, the Director of Pension, Provident Fund & Group Insurance, West Bengal for taking necessary consequential steps for releasing the pension and other retiral benefits to the petitioner as per his entitlement.
12. The entire exercise shall be completed within a period of eight weeks from the date of communication of this order.
13. Learned advocate for the petitioner is directed to communicate this order to the respondent No.6, the

Chairman, District Primary School Council, Dakshin Dinajpur and the respondent No.7, the District Inspector of Schools (P.E.), Dakshin Dinajpur, for necessary compliance.

14. With the aforesaid direction, the writ petition being **WPA 21496 of 2025** stands disposed of.
15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
16. Interim order, if any, stands vacated.
17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. 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.)