

FMA 1617 of 2025
with
IA No. CAN 1 of 2026
(Sushil Kumar Dutta Vs. The State of West Bengal & Ors.)

Mr. Mukunda Lal Sarkar
..... For the appellant

Mr. Supriyo Chattopadhyay, AGP
Mr. Tanweer J. Mondal
... For the State respondents

By preferring the present intra-court appeal, the appellant has challenged the legality and propriety of the order dated 4th September, 2025, passed by the learned Single Judge in Writ Petition No. WPA 17842 of 2025. By the said order, the learned Judge declined to accept the petitioner's contention and dismissed the writ petition.

Briefly stated, the facts giving rise to this appeal are that the appellant's wife was an Assistant Teacher in a High School and retired on 31st March, 2013 upon attaining the age of superannuation. Vide memo dated 27th June, 2013, a Pension Payment Order (in short, PPO) was issued in her favour, and she started receiving pension with effect from 1st April, 2013. Thereafter, she expired on 22nd May, 2016.

The appellant became entitled to receive family pension thereafter. However, no such pension was released in his favour on the ground that, in the PPO of his wife dated 27th June, 2013, his name was erroneously recorded as 'Sunil' instead of 'Sushil'. In 2014, he preferred a writ petition, being WPA 20520 of 2024, seeking a direction upon the concerned

respondent to rectify his name in the PPO dated 27th June, 2013 and to extend all consequential benefits, including payment of family pension.

Pursuant thereto, his name in the PPO of his wife was rectified, and the arrear family pension as well as the current family pension were released in his favour, and he is presently drawing the same. Subsequently, due to the delayed payment of arrear family pension and current family pension, he preferred another writ petition, being WPA 17842 of 2025, seeking a direction upon the concerned respondent to grant interest on the arrear pension for such delayed disbursement.

By the order under appeal, the learned Single Judge refused to accept such contention and dismissed the writ petition. Hence, the present appeal.

Mr. Sarkar, learned advocate appearing for the appellant, submits that the delay occurred due to the incorrect recording of the name of the appellant in the PPO of his wife, and for this reason, the family pension could not be released in his favour. He further submits that the authority issuing the PPO was responsible for such delay and, as a consequence thereof, the appellant has acquired the right and is entitled to receive interest on the arrear family pension.

Mr. Chattopadhyay, learned Additional Government Pleader representing the State respondents, opposed the contention of Mr. Sarkar. He submits that it was only in 2024 that, for the first time, the appellant drew the attention of the concerned respondent to such error that had occurred in 2013 and thereafter. He further submits that, prior to 2024, the

appellant did not take any effective steps to have his name corrected in the PPO issued in favour of his wife.

He further submits that, for that reason, the delay cannot be attributed to the respondents. He submits that the learned Single Judge has correctly observed that, when the appellant moved the writ petition being WPA 20520 of 2024, he could have raised this issue. However, he chose not to do so, and now he cannot reinvigorate the claim.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

Indisputably, the PPO was issued in favour of the appellant's wife in 2013, in which the appellant's name was incorrectly spelt. The appellant's wife passed away in 2016. However, the said error was pointed out by the appellant for the first time in 2024 by filing a writ petition, being WPA 20520 of 2024. The said writ petition was filed primarily seeking a direction upon the concerned respondent to effect necessary correction in the PPO dated 27th June, 2013. It is also an admitted position that no prayer was made therein for grant of interest on arrears of family pension. Accordingly, the learned Single Judge has rightly applied the principle of constructive res judicata and observed that the petitioner is estopped from reinvigorating such claim by preferring another writ petition.

The learned Single Judge further observed that no contemporaneous steps were taken by the appellant for correction of his name in the said PPO and, as such, in the

facts of the case, the delay cannot be attributed to the State. Such reasoning cannot be faulted.

Therefore, we do not find any infirmity and perversity in the order under appeal. Accordingly, the appeal and its connected application are dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)