

27.01.2026
Sl. No.10
Ct. No.14
gd

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

WPA/27122/2025
ANURADHA MALICK
VS
STATE OF WEST BENGAL AND ORS.

Mr. Nilanjan Bandyopadhyay
Mr. Suman Banerjee

...for the Petitioner.

Mr. Mrinal Kanti Biswas

...for the State.

1. By the present writ petition the petitioner seeks direction upon the respondent authorities to complete the requisite formalities in accordance with law for grant of pension in her favour.
2. The petitioner contends that she is an Assistant Teacher at Antisara Primary School. The petitioner joined the said school on 29th August, 2002. The petitioner is about to retire from service on 31st January, 2026. The husband of the petitioner is missing since 1996. The pension papers of the petitioner has not been processed due to non-submission of joint photograph of the petitioner with her husband. Being aggrieved by such action on the part of the respondent authorities, the petitioner made a demand of justice on 7th November, 2025 through her learned advocate for processing the

pension papers. However, no steps have been taken as yet. Hence this writ petition.

3. Mr. Nilanjan Bandyopadhyay, learned advocate appearing for the petitioner submits that the submission of joint photograph in the pension booklet is a formal procedure which cannot deprive the petitioner of her rightful claim to the grant of pension in her favour. To buttress his contention he relies on the decision of Hon'ble Jharkhand High Court at Ranchi passed in ***State of Jharkhand versus Sanjay Kumar Sharma (LPA No.258 of 2024)***. Further relying on Rule 19 of the West Bengal Primary Education Employees (Death-cum-Retirement Benefit) Rules, 2009 (*hereinafter referred to as the Rules of 2009*) he submits that there is no such provisions to withhold pension on the ground of non-submission of joint photograph. Therefore, the respondent authorities, particularly respondent no.5, District Inspector of Schools (Primary Education), Hooghly be directed to take appropriate steps for processing the pension file of the petitioner for grant of the same.
4. On the contrary, Mr. Mrinal Kanti Biswas, learned advocate appearing for the State respondents submits that as per Part-A of the Comprehension Pension Application under e-Pension Scheme for the Employees' of Recognised & Aided Non-Government Educational Institutions, joint/single photograph has

to be duly attached. If the details in Part-A is found to be correct, the Pension Sanctioning Authority would process Part-C and Part-F accordingly. At the time of processing the pension file it has come to the knowledge of the State respondents that the husband of the petitioner is missing since 1996. However, no documents have been furnished by the petitioner in support of the same. The State has no intention to deprive the petitioner for grant of pension in the event she complies the necessary requirement under law.

5. Having heard the learned advocates for respective parties, the only issue which falls for consideration is whether in the facts and circumstances of the present case the pension paper of the petitioner can be directed to be processed or not.
6. Admittedly, the petitioner has not submitted joint photograph with her husband. The husband is missing since 1996 but there being no General Diary/Missing Diary lodged at that point of time. Rule 19 of the Rules of 2009 does not provide any grounds for withholding of pension due to non-submission of joint photograph. It is relevant to note that, as per Part-A of the comprehensive pension application, a single/joint photograph duly attested is the requirement and not joint photograph only. It is informed by learned advocate for the petitioner that single photograph has already been submitted by the petitioner.

7. ***In D.S. Nakara & Ors. versus Union of India***

reported in **(1983) 1 SCC 305**, the Hon'ble Supreme

Court observed as follows:

"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."

8. The aforesaid proposition clearly shows that a pension is neither a bounty nor a matter of grace depending upon sweet will of the employer and that it creates a vested right. Further it is a payment for rendering past service and is a social welfare measure. Thus, the petitioner who has rendered service for last 23 years is entitled to pension and other post-retiral benefits. It would not be proper to deprive such an employee of pension and other retiral benefits on the ground of non-providing of joint photograph. This Court finds substance in submission of Mr. Bandyopadhyay, learned advocate for the petitioner relying on *Sanjay Kumar Sharma (supra)*.

9. Be that as it may, to avoid any future complications, it would be appropriate if a missing diary is lodged by the petitioner with regard to the fact of missing of her

husband before the jurisdictional police station and furnish a copy of the same before the appropriate authority for grant of her pension.

10. Accordingly, petitioner is granted liberty to lodge a diary before the jurisdictional police station. In the event such complaint is lodged, the local jurisdictional police station shall accept such diary.
11. The respondent no.5, District Inspector of Schools (Primary Education), Hooghly shall process the pension file of the petitioner in accordance with law subject to production of the copy of the general diary.
12. The respondent authorities shall not insist upon the petitioner for submission of joint photograph.
13. With the aforesaid directions, the writ petition being **WPA 27122 of 2025** stands disposed of.
14. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
15. Interim order, if any, stands vacated.
16. All connected applications, if any, stand disposed of.
17. There shall be no order as to costs.
18. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
19. 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.)