01.10.2026
Ct. No.652
D/L 05
(NMD)

W.P.A. 9376 of 2020

Nurjahan Khatun @ Nurjahan
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Sk. Imtiaj Uddin
…for the Petitioner
Mr. Jayanta Kumar Pain,
Mr. Ghanshyam Pandey
for the State

1. The petitioner's grievance is that, in spite of she being eligible for the grant of family pension, in place of her deceased mother, a family member of the deceased school teacher and the pensioner after his death, and particularly in view of the ratio decided in the judgment of the Full Bench of this Court dated 20th June, 2023 in ***MAT 1518 of 2019 (The State of West Bengal & Ors. v. Sabita Roy)***, her prayer as above is yet to be considered by the respondent authorities.
2. The fact remains that the father of the petitioner was an Assistant Teacher in a primary school and died on 23rd September, 1988. Since the death of the father of the petitioner, her mother (now deceased) obtained the family pension as per rules.
3. The petitioner, who is a divorcee in status, started living in her parental house since 1979 and is said

to be dependent on her parents entirely since that time.

4. The family pensioner, that is, the mother of the petitioner, had died on 6th March, 2016. Immediately thereafter, on 23rd June, 2016, the petitioner made an application before the respondent District Inspector of Schools (Primary Education), Murshidabad, seeking grant of family pension in her favour. The petitioner submits that the same is yet to be considered by the respondent authority.

5. Mr. Bari, learned advocate appearing for the petitioner submits further that the law is now well-settled pursuant to the decision of the Full Bench, as mentioned above. He specifically relied on the following portion in the judgment of the Full Bench as mentioned above, which may be quoted below:-

> ***Paragraph 18***
>
> *We have no hesitation in mind to hold that the unaltered or unaffected Memoranda as above clearly demonstrate in unequivocal terms that a teaching and non-teaching staff who retired prior to 1 April, 1981 or after 1 April, 1981 was entitled to get the pensionary benefits in terms of the DCRB Scheme, 1981. On the demise of such staff, their widows are entitled to get family pension in terms of the modified provision of the scheme 1981 vide memorandum dated 01.11.2010. The unmarried or widowed or divorced daughter of an employee who retired prior to 01.04.1981 or after 01.04.1981 is entitled to get family pension on fulfilment of the requirements as per the*

mechanism introduced vide Memorandum no. 96-SE dated 13.04.2010. In such legal scenario, we do not concur with the decision rendered in ***Bela Rani Acharya and Abida Khatun Sk.*** *that an unmarried daughter is not entitled to get family pension till her life ends on the demise of her parent who either received pension or family pension. Though in the decision in MAT 119 of 2014* ***(Kumari Reba Ghosh-Vs-The State of West Bengal)****, the Division Bench had ruled that unmarried daughter of a pensioner would be entitled to get family pension, but this Bench neither referred to nor interpreted the relevant memoranda relating to extension of family pension unmarried/widowed/divorced daughter. That being the position, we though concur with the final decision, but we respectfully disagree with the observations as recorded therein.*

From the memoranda as above it is clearly explicit that the legislative intent was to extend the benefits of family pension to unmarried / widowed /divorced daughter of an employee who retired before or after 01.04.1981 or to unmarried / widowed / divorced daughter of a family pensioner. In such premise, the memorandum dated 1 November, 2010 should not stand in the way of extending such benefits in the absence of any express provision therein restricting or affecting the benefits. Socio-economic justice stemming from the concept of social morality, if pressed into service, the memoranda granting social security of livelihood to the aforesaid classes of women by providing family pension should be construed liberally. Some isolated terms in the memorandum dated 01.11.2010 providing pension to living employees or their widows, in our view, cannot restrict the beneficial provisions contained in the memoranda as above.

6. The present matter relates to grant of family pension to a divorced daughter of a family pensioner. Admittedly, the father of the petitioner was a teacher and, after his death, his wife that is, the mother of the petitioner obtained family pension. There is no dispute also to the fact that the petitioner is a divorcee and that she was dependent for her livelihood on her mother, the family pensioner.

7. In such circumstances, this Court finds the ratio of the decision of the Hon'ble Full Bench clearly binds the parties in the instant case, and the decision has to be taken by the respondent authority in due observance and compliance thereof.

8. Let, therefore, the prayer of the petitioner vide letter dated 23rd June, 2016 addressed to respondent no. 3 be relegated to respondent no. 4 for his consideration and decision on the issue, specifically in light of the ratio of the decision of the Hon'ble Full Bench in ***Sabita Roy's case (supra)***.

9. Let the respondent no. 4 consider the prayer of the petitioner as above after affording appropriate reasonable opportunity of hearing to the petitioner and considering the judgment as above. Let the said respondent pass a reasoned order within a period of three weeks from the date of communication of this order.

10. Needless is to mention that, upon his arrival at the finding of eligibility of the petitioner for family pension, the said respondent shall take all consequential steps pursuant to his order, as expeditiously as possible, for grant of family pension to the petitioner.

11. With the direction as above, the writ petition is disposed of.

12. All concerned parties shall act in terms of the server copy of this order duly downloaded from the official website of this Court.

13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)