

(2011) 04 CAL CK 0029
In the Calcutta High Court
Case No : Writ Petition No. 8809 (W) of 2009

Pratima Sanpui

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 21-04-2011

Acts Referred:

Citation : (2011) 04 CAL CK 0029

Hon'ble Judges : Jyotirmay Bhattacharya, J

Bench : Single Bench

Advocate : Kamal Mishra, for the Appellant;

Final Decision : Allowed

Judgement

Jyotirmay Bhattacharya, J.—The husband of the Petitioner, who was an Assistant Teacher of Tapna Chaurbhuj Junior High School, died in harness on 17th November, 2002. Earlier there was some dispute with regard to certain period of his service as admittedly, the Petitioner's husband did not attend the school during the period from 21st March, 1979 to 31st March, 1984. As a result of such dispute, the terminal benefits of the Petitioner's husband could not be disbursed. Under such circumstances the Petitioner earlier filed a writ petition being W.P. No. 11821(W) of 2005 before this Hon'ble Court. The said writ petition was ultimately disposed of by a learned Single Judge of this Court on 31st August, 2005 wherein it was held that the Petitioner was under duress and he was obstructed from joining the school during the period of March 21, 1979 to March 31, 1984 and as such the said period will be treated as under duress. His Lordship also held that the overdrawal or excess amount in pay during the period of his service, cannot be deducted from the retiral benefits of the Petitioner's husband. Accordingly, the Director of Pension, Provident Fund and Group Insurance was directed to issue revised pension payment order and to treat her husband as in service from 1979 to 1984 and not to deduct the amount of overdrawal from the pension payment order. The Director of Pension, Provident Fund and Group Insurance was, thus, directed not to ask the Petitioner to refund

the amount of overdrawal in pay with a rider that he will not adjust the overdrawal amount in pay from the retiral benefits of the husband of the Petitioner. The Director was further directed to issue revised pension payment order within the period of four weeks from the date of communication of His Lordship's said order. The Treasury Office was also directed to disburse the family pension in terms of the observation made in the said order within two weeks from the date of receipt of the revised pension payment order.

2. Admittedly, the overdrawal in pay which was deducted from the retiral benefits of the Petitioner's husband has been refunded to the Petitioner in terms of the aforesaid order of this Hon'ble Court. However, the rest part of the said order i.e. (i) issuance of revised pension payment order and/or (ii) the disbursement of the family pension to the Petitioner have not been complied with by the Respondent till date. Under such circumstance, the present writ petition has been filed by the Petitioner practically for implementing that part of the order passed by this Court in the earlier writ petition which still remains unimplemented.

3. Considering the facts and circumstances of this case, this Court finds that the rights of the parties have already been decided by this Court while disposing of the earlier writ petition. The parties to the said writ petition have accepted the order passed in the earlier writ petition. As such, they cannot now avoid implementation of the order passed by this Court in the earlier writ petition.

4. Accordingly, this Court disposes of this writ petition by directing the Respondents to pay the unpaid retiral dues of the Petitioner's husband by issuing a revised pension payment order on the basis of his last drawn salary. The Respondents are also directed to release the admissible arrear family pension of the Petitioner on the basis of the last drawn salary of her husband forthwith. The entire process, in this regard, including the payment of the retiral dues of the Petitioner's husband and arrear family pension together with interest @ 8% per annum from the date of death of the Petitioner's husband up-to the date of actual payment thereof should be completed within a period of eight weeks from the date of communication of this order.

5. The writ petition is, thus, allowed.

6. Urgent Xerox certified copy of this order, if applied for, be given to the parties as expeditiously as possible.