

05.05.2026
Sl. No.182(DL)
Ct. No.14
srm

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

W.P.A. No. 841 of 2025

Joya Sarkar

Versus

The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya)

...for the Petitioner.

Mr. Gautam Basu

...for the State.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks permission to deposit the employer's share of Contributory Provident Fund amount with interest and additional interest in order to avail the benefit of family pension.
3. The petitioner contends that her husband was appointed as Assistant Teacher of Bhakti Padam Gachh F.P. School, District-Uttar Dinajpur. The petitioner's husband retired from service on superannuation on 30th June, 2006 and expired on 7th January, 2010. The petitioner's husband exercised option under ROPA 1990 and ROPA 1998. The Pension Payment Order was issued without any pension or family pension. The petitioner intends to deposit the Government's share in Contributory Provident Fund

- with interest and additional interest to avail the benefit of family pension. Hence, this writ petition.
4. Mrs. Sabita Khutia (Bhunya), learned Advocate for the petitioner submits that in the light of the proposition laid down by the Hon'ble Division Bench of this Court in ***Pramila Behara versus The State of West Bengal (In Re: FMA 864 of 2022)*** and in ***State of West Bengal versus Sefali Jana & Ors. (In Re: FMA 620 of 2018)***, the petitioner may be permitted to deposit the employer's share of Contributory Provident Fund amount together with interest and additional interest to avail the benefit of family pension.
 5. Mr. Gautam Basu, learned Advocate for the State-respondents, on the contrary, submits that the husband of the petitioner did not exercise option for switching over from Contributory Provident Fund scheme to General Provident Fund scheme in terms of notification No.749-SE(L)/SL/55-56/13(Pt-V) dated 13th June, 2014. Therefore, the petitioner being the widow of the deceased teacher cannot exercise such option.
 6. It is no more *res intergra* that once the option is exercised under ROPA 1990 for revised scale of pay further exercise of fresh option for pension is not required. Therefore, the argument advanced on behalf of the State-respondents is not sustainable.
 7. In view of the proposition laid down by the Hon'ble Division Bench as cited above, the respondent No.4,

District Inspector of Schools (Primary Education), Uttar Dinajpur is directed to calculate the amount required to be refunded by the petitioner to get the benefit of pension and upon deposit of the said amount the said respondent being the pension sanctioning authority shall verify the pension papers of the petitioner and sent the same to the respondent No. 3, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal for further steps to be taken in accordance with law for issuance of the Pension Payment Order in favour of the petitioner.

8. The respondent Nos.3 and 4 shall complete the respective exercise as expeditiously as possible and the pension shall be paid to the petitioner on and from the next date of superannuation of the petitioner's husband.
9. With the above direction, the writ petition being **WPA 841 of 2026** stands disposed of.
10. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
11. Interim order, if any, stands vacated.
12. All connected applications, if any, stand disposed of.
13. There shall be no order as to costs.
14. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

15. 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.)