

Rajmuni Devi Vs. District Inspector of Schools, Ghazipur and ors.

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Court : Allahabad

Decided On : Nov-28-2001

Reported in : 2002(1)AWC208; (2002)1UPLBEC630

Judge : Anjani Kumar, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 38282 of 2001

Appellant : Rajmuni Devi

Respondent : District Inspector of Schools, Ghazipur and ors.

Advocate for Def. : C.S.C.

Advocate for Pet/Ap. : U.K. Mishra and ;A.K. Mishra, Advs.

Judgement :

Anjani Kumar, J.

1. Heard learned counsel for the petitioner and learned standing counsel for the respondents. Petitioner by means of this writ petition under Article 226 of the Constitution, has challenged the order dated 27th September, 2001.

2. The petitioner is a widow, who claimed the family pension on account of the death of her husband. The claim of the petitioner has been rejected solely on the

ground that in view of the Government order dated 24th February, 1989, the family pension of such employee is payable only to such family members whose bread earner had died after 1st December, 1989, whereas the petitioner's case is that petitioner's husband died on 31st August, 1987. This view is wholly arbitrary in view of the decision of the Apex Court in the case of D. S. Nakara v. Union of India, AIR 1983 SC 130. The aforesaid Government order amounts to carving out a class from a homogenous class of persons who are entitled for the family pension, the basis of which is not permissible under law. In this view of the matter, the order dated 27th September, 2001, is quashed.

3. The writ petition is allowed. The petitioner is entitled for family pension from the date from which all other persons are allowed by the respondents and the benefit of family pension shall not be denied only on the ground that the husband of the petitioner had died before 1.12. 1989. Order accordingly.

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