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**(2010) 04 CAL CK 0058**

**Calcutta High Court**

**Case No:** Writ Petition No. 8548 (W) of 2010

Smt. Parimal Das

APPELLANT

Vs

State of West Bengal and others

RESPONDENT

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**Date of Decision:** April 28, 2010

**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Citation:** (2010) 127 FLR 154

**Hon'ble Judges:** Jayanta Kumar Biswas, J

**Bench:** Single Bench

**Advocate:** Ramdulal Manna and Sabyasachi Mondal, for the Appellant; Chinmoy K. Maiti, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Jayanta Kumar Biswas, J.

The petitioner in this Article 226 petition dated April 23, 2010 is seeking a mandamus commanding the respondents to pay her pension and other benefits.

2. Her case is this. Her husband was a primary school teacher. On September 1, 1976 he resigned from service. In view of the Death-Cum-Retirement Benefit Scheme, 1981 notified by Memo No. 136-Edn(B) dated May 15, 1985 of the Education Department, Government West Bengal he was entitled to pension, and on his death on February 1, 2005 she became entitled to family pension.

3. The admitted, position is that the petitioner's husband never received pension or approached any Court of law alleging that though in law he was entitled to pension, the State refused to pay him pension. No law has been produced to show that the petitioner's husband resigning, not retiring, from service as back as September 1, 1976 became entitled to pension under the Death-Cum-Retirement Benefit Scheme, 1981.

4. There is no provision of law that creates the petitioner's right to get family pension as the wife of the teacher who resigned from service. I find no merit in the argument that it will appear from the documents produced with the petition that the respondents were making enquiries for ascertaining whether the petitioner would be entitled to family pension.

5. For an order of this order directing the respondents either to pay her pension and other benefits or to give a decision in her case, the petitioner must show that in law she is entitled to the benefits. I repeat that as a teacher resigning, not retiring, from service the petitioner's husband was not entitled to any pension under any law.

For these reasons, the petition is dismissed. No costs. Certified xerox.