

**W.P.A. 2258 OF 2021**

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**(Via Video Conference)**

Anindita Mukherjee

-vs.-

The State of West Bengal & Ors.

Mr. Washef Ali Mondal

....For the Petitioner

Mr. Pinaki Dhole

Ms. Kakali Samajpaty.

....For the State

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the order dated December 16, 2020 passed by the Commissioner of School Education, West Bengal wherein the authority has rejected the prayer of the petitioner for condoning the delay in refund of the amount to be made over by the petitioner to the State for transposing the pension scheme from Contributory Provident Fund-cum-Gratuity in Death-Cum-Retirement Scheme, 1981 (hereinafter referred to as 'CPF') to West Bengal Recognized Non-Government Institutions (Death-cum-Retirement Benefit) Scheme, 1981 [hereinafter referred to as 'GPF'].

2. I have perused the impugned order and it appears from the order itself that the delay in making of the refund was not that of the petitioner. In fact, the order itself

clarifies that the delay was on the part of the District Inspector of Schools (S.E.), North 24-Parganas [hereinafter referred to as the 'D.I.]. In spite of the same, the authority concerned did not pass any order in favour of the petitioner as according to him, the rules did not allow him to do so.

3. In my view, pension related matters and legislation and rules therein are beneficial in nature and have to be interpreted accordingly. When there is no fault on the part of the petitioner, she cannot be denied a particular benefit.

4. In light of the same, I direct the D.I. to adjust the refundable amount from the CPF and thereafter convert the CPF to GPF for the petitioner.

5. Needless to mention, the Pension Payment Order should be issued expeditiously and payment of pension should be started. Further more, arrear pension should be paid to the petitioner within a period of eight weeks from date.

6. The school authorities are also directed to submit documents related to the petitioner including Service Book, etc. in accordance with law to the D.I. within a period of four weeks from date.

7. With the above directions the writ petition is disposed of. There will be no order as to costs.

8. Since no affidavit-in-opposition is called for, the allegations made in the writ petition are deemed not to have been admitted.

9. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

**(Shekhar B. Saraf, J.)**