

107
13.05.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 2254 of 2022

**Jiban Chandra Naskar & Ors.
-versus
State of West Bengal & Ors.**

**Mrs. Sabita Khutia (Bhunya).
...For the Petitioners.**

**Mr. Amal Kumar Sen,
Ms. Ashima Das (Sil).
...For the State.**

Affidavit-of-service filed in Court today is taken on record.

This writ petition has been filed by seven petitioners.

Learned advocate appearing for the petitioners submits that he wants to proceed only with the petitioner No.2.

In view of such prayer, the writ petition stands dismissed in respect of the petitioner Nos. 1 and 3 to 7.

The order passed herein will be restricted only in respect of the petitioner No.2 herein.

Leave is granted to the petitioner Nos. 1, 3 to 7 to file separate proceedings in accordance with law, if so advised.

The issue to be decided in the present writ petition is whether an employee will be entitled to receive pension on and from the date following retirement or from the date of refund of the employer's share of contribution.

The petitioner No.2 retired from service on attaining the age of superannuation on 31.01.2003.

In response to the notification published by the School Education Department being No. 79-SE(L)/SL/5S-56/13(Pt-V) dated 13th June, 2014 issued in compliance of the direction passed by the Hon'ble Special Bench of this Court in the judgment dated 16th July, 2013 in the matter of District Inspector of Schools (S.E.), Kolkata –vs- Abhijit Baidya the petitioner No.2 exercised option to switch over from CPF to GPF and claims to have refunded the employer's share of contribution with interest and additional interest on 10.09.2014.

Pension Payment Order was issued in favour of the petitioner No.2 with effect from the date of refund of the employer's share of contribution.

The petitioner No. 2 claims that pension ought to have been released on and from the next date of retirement and not from the date of refund of the employer's share of contribution.

A similar issue has been decided by this Court in the matter of WPA No. 964 of 2022 (Sitala Mandal (Chaudhuri) –vs- State of West Bengal & Ors.).

The judgment passed in the aforesaid matter on 8th February, 2022 will cover the present writ petition.

Instant writ petition is disposed of by directing the Director of Pension, Provident Fund and Group Insurance and the concerned Treasury Officer to verify the records, and in the event, it is found, that the petitioner no. 2 exercised option and refunded the employer's share of contribution within the time specified in the notification dated 13th June, 2014, then steps shall be taken to issue Revised Pension Payment Order in favour of the petitioner no. 2 with effect from the date following the date of retirement on superannuation and to release the pension in accordance with the Revised Pension Payment Order. Such steps shall be taken within a period of twelve weeks from the date of communication of a copy of this order. Payment shall positively be released immediately upon issuance of the Revised Pension Payment Order.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)