

Court No. 24
28.03.2022
(Item No. 90)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 4009 of 2022

Sayla Khatoon
VS
The State of West Bengal & Ors.

Ms. Sabita Khutia (Bhunya)
..... for the petitioner
Mr. Pinaki Dhole
Mr. Pinaki Bhattacharyya
..... For the State

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 husband of the petitioner retired from service on attaining the age of superannuation in 30th November, 2009 and died on 13.09.2015.

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 husband of the petitioner 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 11.11.2014.

Pension Payment Order was issued in favour of the husband of the petitioner with effect from the date of refund of the employer's share of contribution.

The petitioner claims that pension ought to have been released on and from the next date of retirement of the husband of the petitioner 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.

As the teacher died in the meantime, accordingly, the revised pension payment order is required to be issued in favour of the heir of the deceased employee.

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 husband of the petitioner 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 with effect from the date following the date of retirement of her husband 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.

Affidavit of service kept with the record.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)