

18.04.2022
SL No. 7
Court No. 24
(P.M)

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

WPA 3339 of 2020

**Nityapada Chakraborty & Ors.
Vs
The State of West Bengal & Ors.**

Ms. Sabita Khutia (Bhunya)
... for the petitioners.

Mr. Pinaki Dhole,
Mr. Parikshit Goswami
... for the State

This petition has been filed by eight petitioners.

It appears that all the petitioners are retired teachers. They were appointed and superannuated on diverse dates. They refunded the employer's share of contribution in the treasury office on diverse dates.

The cause of action for filing the present writ application in respect of all the writ petitioners is different.

Accordingly, all petitioners cannot join to file the writ petition. The writ petition is allowed in respect of the petitioner No. 1 Nityapada Chakraborty and the same stands dismissed in respect of the petitioner Nos. 2 to 8. Petitioner Nos. 2 to 8 will be at liberty to file individual

writ petitions for redressal of their grievances, 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 retired from service on attaining the age of superannuation on 30.11.2005.

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 exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 29.09.2014.

Pension Payment Order was issued in favour 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 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 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 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.

WPA 3339 of 2020 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)