

22.03.2022
SL No. 11
Court No. 24
(P.M)

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

**WPA 2124 of 2016
With
IA No. CAN 1 of 2022**

**Beauty Nandi
Vs
The State of West Bengal & Ors.**

Mr. Sourav Mitra,
Ms. Sreyasree Choudhury
... for the petitioner.

Mr. Suman Dey
... for the State

The learned advocate for the petitioner submits that the sole writ petitioner expired during the pendency of the writ petition. An application for substitution has been filed by the applicants namely Manas Kumar Nandi (husband) and Animesh Nandi (Son).

In the facts of the present case the right to sue does not get extinguished on the death of the sole petitioner. Accordingly, the application for substitution stands allowed.

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 wife of the applicant No. 1 and the mother of the applicant no. 2 retired from service on attaining the age of superannuation on 31st January, 2007 and she died on 19th June, 2021.

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 teacher exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 08.09.2014.

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

The applicants claim that pension ought to have been released on and from the next date of retirement of the teacher 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 (Sitla 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 expired in the meantime accordingly revised Pension Payment Order is required to be issued in favour of the heir(s) of the deceased teacher.

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 teacher 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 heir(s) of the deceased teacher 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 2124 of 2016 along with CAN 1 of 2022 stands 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.)