

29.07.2022
Court No.13
Item No.591
Saswata

WPA 11988 of 2022

Rosayed Ali Mullick
Vs.
State of West Bengal & Ors.

Mr. Saktipada Jana
Mr. Subhajyoti Das

... For the Petitioner.

Mr. Samsul Kabir Humayan Reza
... For the State

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

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 31.10.2007.

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 19.09.2014.

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.

Accordingly, the writ petition is disposed of.

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

(Rajasekhar Mantha, J.)