

08.08.2022
Court No.13
Item No.42
AP

WPA 13715 of 2021

**Chaitali Dasgupta and Anr.
Vs.
The State of West Bengal and Ors.**

Ms. Santi Das

... For the petitioners.

Ms. Chama Mookherji

Ms. Monika Pandit

... For the State.

The only question that arises for consideration is as to whether the original writ petitioner should have been allowed to benefit on switching over from CPF to GPF despite not having refunded a sum of Rs.5,50,877/- in terms of the Rules for such conversion.

The original writ petitioner, since deceased, retired from Arya Vikas Vidyalaya, Kolkata on 30th November 2009. He received his CPF amount but not the gratuity. The original writ petitioner exercised option for switch over from CPF to GPF on 20th August 2014 and was required to refund the said sum of Rs.5,50,877/- within the stipulated time which he could not.

It is submitted that the said inability to refund arose out of financial constraints that the original petitioner was facing from 2009 to 2014 as the CPF was the sole source of his sustenance.

The original petitioner was and petitioners are ready and willing to so refund the said sum as on date which would have normally attracted interest.

However, given the fact that the husband of the petitioner no. 1 retired in November 2009 and the gratuity amount of Rs.5,50,877/- has been paid to him only on 6th December 2021, i.e. after a delay of 11 years, this Court directs the State to adjust the said sum of gratuity towards the refundable amount of CPF for the purpose of entitlement of the deceased employee to GPF.

In these circumstances, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal shall forthwith adjust the said sum of Rs.5,50,877/- towards the required refund of provident fund and issue PPO to the writ petitioner no. 1 within a period of one month from date.

For the delay in payment of retirement benefits the husband of the writ petitioner no. 1 would have been normally entitled to interest @ 7 percent per annum. However, given the fact that there has been delay on the part of the deceased and the writ petitioners in refunding the CPF, this Court is not inclined to award any interest to the petitioner for delayed payment of retiral benefits on account of the deceased. The arrears of such pension shall, however,

be paid to the writ petitioner within a period of three months from date.

In view of the above, the impugned memorandum dated 2nd February 2022 issued by the Commissioner of School Education shall stand set aside.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)