08.09.2022
(D/L-117)
Ct.-18
(Susanta)

W.P.A. 13236 of 2022

Sukumar Mitra
-Vs-
The State of West Bengal & Ors.

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
.... For the Petitioner.

Affidavit of service filed by the learned advocate for the petitioner be kept with the record.

The petitioner was an Assistant Teacher and retired from his service on superannuation on December 31, 2011.

The petitioner exercised option to switch over to Pension-cum-Gratuity from CPF-cum-Gratuity by refunding the employer's share of contribution with interest and additional interest on September 1, 2014 i.e. within the time limited by the notification of the Government of West Bengal bearing No. 749-SE(L)/SL/5S-56/13(Pt-V) dated June 13, 2014.

The grievance of the petitioner is that the Pension Payment Order was issued in favour of the petitioner with effect from the date of the refund of the said employer's share of contribution, instead from the date following the date of his retirement.

The petitioner by the instant writ petition is praying for issuance of a writ of mandamus commanding the respondents to release the arrear pension from the date following the date of his retirement.

In view of the judgment of the Special Bench of this Court in the case of **DISTRICT INSPECTOR OF SCHOOLS(SE), KOLKATA vs. ABHIJIT BAIDYA** reported in **2013(3) CHN (CAL) 711** and in view of subsequent clarification of some of the paragraphs of the said judgment by the Special Bench in its order dated September 30, 2019 on G.A. 464 of 2018, the issue whether the petitioner is entitled to pension from the date following the date of his retirement or from the date of the refund of the employer's share of contribution is no longer res integra.

Therefore, the petitioner is entitled to the arrear pension, as prayed for and in consequence thereof, the concerned District Inspector of School(SE) is directed to verify the records expeditiously to ascertain as to whether the petitioner had exercised the said option and refunded the employer's share of contribution within the time limited by the aforesaid notification dated 13th June, 2014.

In the event, it is found that the said option has been exercised within the said time, the said authority shall process the claim of the petitioner for arrears of pension and shall forward the necessary recommendation and/or sanction to the Director of Pension, Provident Fund and Group Insurance and the concerned Treasury Officer, who, in turn, shall take steps to issue Revised Pension Payment Order in favour of the petitioner with effect from the date following the date of his retirement on superannuation and shall release the pension in accordance with the Revised Pension Payment Order.

Entire exercise in this regard is required to be completed within a period of twelve weeks from the date of communication of this order.

W.P.A 13236 of 2022 stands disposed of with the above directions. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)