

14.09.2022  
(D/L-35)  
Ct.-18  
(Susanta)

W.P.A. 13533 of 2022

Biswanath Dolui

-Vs-

The State of West Bengal & Ors.

Mr. Subhrangsu Panda,  
Ms. Ina Bhattacharyya,  
Ms. Mithu Singha Mahapatra,  
.... For the Petitioner.

Mr. Sumen Dey,  
.... For the State.

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 said service on superannuation on  
January 31, 2009.

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 August 28,  
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 13<sup>th</sup> 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 13533 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.)