

14.09.2022
Item No.123
Court No.18
AJ.

W.P.A. 14929 of 2022

Kohinoor Pal
-Vs-
The State of West Bengal & Ors.

Mr. Banshi Badan Maity.
.....for the petitioner.
Ms. Sutapa Sanyal,
Ms. Susnita Saha.
.....for the State.

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

The husband of the petitioner was an approved Assistant Teacher of a Secondary School and retired from the said service on superannuation on July 31, 2000 and died on April 25, 2019.

The husband of 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 March 18, 2015 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's husband 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.

Learned Advocate for the State does not oppose the prayer of the petitioner.

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 husband of 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 14929 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.)