

14.09.2022  
(D/L-43)  
Ct.-18  
(Susanta)

W.P.A. 15047 of 2022

Subrata Ghosh

-Vs-

The State of West Bengal & Ors.

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

Mr. Arun Kumar Roy,  
Mr. Arun Kumar Saha,  
.... For the State.

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

The petitioner's sister was an Assistant  
Teacher and retired from her said service on  
superannuation on March 31, 2014 and she died  
on July 25 2018.

The sister 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 30, 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  
sister 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 retirement of the sister of the petitioner.

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 retirement of the employee concerned.

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 sister 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 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 retirement on superannuation of the employee concerned 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 15047 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.)