

31.08.2022
SL No. 10
Court No. 13
ap

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 19921 of 2022
Rajrani Jana
Vs
The State of West Bengal & Ors.

Mr. Sakti Pada Jana,
Mr. Subhajyoti Das.

... for the petitioner.

Mr. Tapan Kumar Mukherjee,
Mr. Somnath Naskar.

...for the State.

Affidavit of service filed in Court today be kept
with the record.

The issue to be decided in the present writ
petition is whether an employee will be entitled to receive
pension on and from the date following retirement or
from the date of refund of the employer's share of
contribution.

The petitioner retired from service on attaining
the age of superannuation on 31.01.2002.

In response to the notification published by the
School Education Department being No. 79-
SE(L)/SL/5S-56/13(Pt-V) dated 13th June, 2014 issued
in compliance of the direction passed by the Hon'ble
Special Bench of this Court in the judgment dated 16th
July, 2013 in the matter of District Inspector of Schools

(S.E.), Kolkata –vs- Abhijit Baidya the petitioner exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 11.08.2014.

Pension Payment Order was issued in favour of the petitioner with effect from the date of refund of the employer's share of contribution. The employee died on 27.02.2015.

The petitioner claims that pension ought to have been released on and from the next date of retirement and not from the date of refund of the employer's share of contribution.

A similar issue has been decided by this Court in the matter of WPA No. 964 of 2022 (Sitala Mandal (Chaudhuri) –vs- State of West Bengal & Ors.).

The judgment passed in the aforesaid matter on 8th February, 2022 will cover the present writ petition.

The teacher died on 27.02.20215 and accordingly the revised pension payment order is required to be issued in favour of the widow of the deceased employee.

Instant writ petition is disposed of by directing the Director of Pension, Provident Fund and Group Insurance and the concerned Treasury Officer to verify the records, and in the event, it is found, that the petitioner exercised option and refunded the employer's share of contribution within the time specified in the notification dated 13th June, 2014, then steps shall be

taken to issue Revised Pension Payment Order in favour of the petitioner with effect from the date following the date of retirement on superannuation and to release the pension in accordance with the Revised Pension Payment Order. Such steps shall be taken within a period of eight weeks from the date of communication of a copy of this order. Payment shall positively be released immediately upon issuance of the Revised Pension Payment Order.

For the aforesaid purpose, the DI of Schools concerned shall process the claim for arrears of pension and make/forward a necessary recommendation/sanction to the DPPG expeditiously. The DPPG in turn shall act based on such recommendation/sanction.

Counsel for the State submits that the review petition has been filed before the three Judges' Bench as regards the decision in the case of State of West Bengal & Ors. - Vs. - Md. Abdul Ghani & Ors. The matter is since pending as R.V.W.O. No. 5 of 2022.

The above decision is subject to any decision in the said R.V.W.O. No. 5 of 2022.

The instant writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Rajasekhar Mantha, J.)

