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25.02.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 20754 of 2015
(Via Video Conference)**

**Md. Asmat Ali Mondal
-versus
State of West Bengal & Ors.**

**Mr. Subhrangsu Panda,
Ms. Ina Bhattacharya,
Ms. Mithu Singha Mahaparta.
...For the Petitioner.**

**Mr. Jaahar Dutta,
Mr. Bipin Ghosh.
...For the State.**

Affidavit-of-service filed in Court today is taken on 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 applicants are the heirs of the deceased petitioner who father was a primary school teacher and he retired from service on attaining the age of superannuation on 30th June, 1997 and he died on 21st September, 2020 and the mother of the applicants died on 19th July, 2014.

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 father of the applicants that is the deceased teacher exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 29th September, 2014 and 3rd November, 2014.

Pension Payment Order was issued in favour of the deceased teacher with effect from the date of refund of the employer's share of contribution.

The applicants claim 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.

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 teacher 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 heirs of the deceased 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 twelve 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.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)