

OD-4

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/2373/2022

ANIL KUMAR GHOSH
VERSUS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 2nd August, 2022

Appearance:
Mr. S. S. Arefin, Adv.

The Court :- 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 petitioner retired from service on attaining the age of superannuation on 31st December, 2001.

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's husband exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 11th September, 2014.

Pension Payment Order was issued in favour of the petitioner allowing pension with effect from the date of refund of the employer's share of contribution i.e. 11th September, 2014.

The petitioner claims that pension ought to have been released in favour of the petitioner 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 and Ors.)**.

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

The instant writ petition is therefore 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 husband of 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 issued Revised Pension Payment Order in favour of the petitioner with effect from the date following the date of retirement of the petitioner 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 Payment Order.

WPO/2373/2022 is disposed of.

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

(RAJASEKHAR MANTHA, J.)

S. Chandra/mg.