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Ct No 2023
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AGM

**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 641 of 2023

**Sk. Asgar Ali
Vs
The State of West Bengal & Ors**

Mr. Ashis Kumar Paul

Ms. Tithi Paul

... For the petitioner.

Mr. Somnath Bose

... for the State.

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 father of the petitioner retired from service on attaining the age of superannuation on 31.03.2000.

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 petitioners exercised option to switch over from the CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 22.08.2014 and 23.03.2015.

Pension Payment Order was issued in favour of the father of the petitioner with effect from the date of refund

of the employer's share of contribution.

The petitioner claims that pension ought to have been released on and from the next date of retirement of the father of the petitioners 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.

As the teacher died in the meantime, accordingly, the revised pension payment order is required to be issued in favour of the heir of the deceased employee.

Instant writ petition is disposed of by directing the Director of Pension, Provident Fund and Group Insurance and the concerned Treasure Officer to verify the records, and in the event, it is found, that the father of the petitioners 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 petitioners with effect from the date following the date of retirement of their father 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.

Affidavit of service kept with the records.

WPA 641 of 2023 is 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.)