

11 08.05.2023  
rkd Ct.15

W.P.A. 317 of 2019

Smt. Sarama Jana (Das)

-vs-

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya,  
Mr. S. P. Pashari,  
Mr. A. Pradhan,  
Mr. T. K. Mahapatra

....for the petitioner.

Mr. Supriyo Chattopadhyay,  
Mr. Sabyasachi Mondal

....for the State.

Affidavit-of-service filed by the petitioner is  
taken on record.

Petitioner is a retired assistant teacher who  
superannuated on 31<sup>st</sup> August, 2008 and got the  
benefit under the Contributory Provident Fund  
Scheme (CPF). Petitioner exercised option to come  
under the Pension-cum-Gratuity Scheme in terms  
of Government notification dated 13<sup>th</sup> June, 2014  
which was issued in terms of the judgment of the  
Special Bench dated 16<sup>th</sup> July, 2013 passed on  
intra court appeal being APO No.94 of 2009 (State  
of West Bengal & Ors. -vs- Abhijit Baidya & Ors.).

It has also been submitted on behalf of the  
petitioner that as per demand of the State  
respondents she has deposited the amount along  
with interest and additional interest which she  
received under CPF Scheme.

However, the grievance of the petitioner is after taking steps in terms of the said notification dated 13<sup>th</sup> June, 2014 by issuing pension payment order dated 20<sup>th</sup> August, 2018 pensionary benefit was sanctioned in favour of the petitioner not from the date following the date of her retirement but from the date of refund which she made after exercising option in terms of the said notification dated 13<sup>th</sup> June, 2014. Petitioner claims issuance of revised pension payment order thereby sanctioning pensionary benefits from the date following the date of her superannuation based on the judgement of the Special Bench dated 30<sup>th</sup> September, 2019 passed on intra Court appeal being APO No.121 of 2007.

The State respondents are represented by Mr. Mondal, learned advocate who has also submitted that based on the judgment dated 30<sup>th</sup> September, 2019 of the Special Bench the benefit of pension is accorded to other similarly circumstanced retired teachers from the date following the date of their superannuation provided exercise of option has been made within time in terms of said notification dated 13<sup>th</sup> June, 2014 and if the refund is made by the concerned teacher as per the calculation of the State respondents.

This Court has heard the learned advocates representing the parties and has perused the relevant materials available on record.

It is nobody's case that the petitioner did not exercise option within time in terms of the said notification dated 13<sup>th</sup> June, 2014 since the petitioner duly on exercising option in terms of notification dated 13<sup>th</sup> June, 2014 switched over from CPF to Pension-cum-Gratuity Scheme. On placing reliance on paragraph 55 of the judgment of the Special Bench dated 30<sup>th</sup> September, 2019, this Court does not find any impediment in extending the benefit of pension to the petitioner from the date following the date of her retirement provided exercise of option is made within time and refund has been made as per the calculation of the State respondents.

Accordingly, this Court directs the State respondents to issue revised pension payment order in favour of the petitioner within twelve weeks from this date thereby extending the benefit of pension from the date following the date of her superannuation.

With the above direction, the writ petition stands disposed of.

However, there shall be no order as to

costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Saugata Bhattacharyya, J.)**