

03.02.2023
(D/L-16)
Ct.-18
(Susanta)

W.P.A. 1758 of 2023

Samiran Mandal & Anr.
-Vs-
The State of West Bengal & Ors.

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya, For the Petitioner.
Ms. Kakali Naskar, For the State.

Affidavit-of-service filed by the learned advocate
for the petitioner be kept with the record.

The wife of the petitioner no.1 was an approved
Assistant Teacher, she retired from her said service
on superannuation on February 29, 2008 and died
on April 27, 2021.

The petitioners are claiming that the employee
concerned had exercised option to switch over to
Pension-cum-Gratuity from CPF-cum-Gratuity and
refunded the employer's share of contribution with
interest and additional interest within the time
limited by the notification of the Government of West
Bengal bearing No. 749-SE(L)/SL/5S-56/13(Pt-V)
dated June 13, 2014.

The grievance of the petitioners is that the
Pension Payment Order was issued with effect from
the date of the aforesaid refund, instead from the
date following the date of retirement of the employee
concerned on superannuation.

The petitioners by the instant writ petition are
praying for issuance of a writ of mandamus

commanding the respondents to release the arrear pension from the date following such date of retirement.

Learned advocate for the State-respondents does not oppose the prayer of the petitioner.

In view of the judgment of the Special Bench of this Court in the case of ***DISTRICT INSPECTOR OF SCHOOLS(SE), KOLKATA vs. ABHIJIT BAIDYA*** reported in **2013(3) CHN (CAL) 711** and in view of subsequent clarification of some of the paragraphs of the said judgment by the Special Bench in its order dated **September 30, 2019** on **G.A. 464 of 2018**, the issue is no longer *res integra*.

The petitioners are entitled to the arrear pension, as prayed for. The concerned District Inspector of School (SE) is directed to verify the records expeditiously to ascertain as to whether the employee concerned had exercised the said option and refunded the employer's share of contribution within the time limited by the aforesaid notification dated June 13, 2014.

In the event, it is found that the said option was so exercised, the said authority shall process the claim of the petitioner No.1 for arrears of pension and shall forward the necessary recommendation and/or sanction to the Director of Pension, Provident Fund and Group Insurance, who, in turn, shall take steps to issue Revised Pension Payment Order in favour of the petitioners with effect from the date following the date of retirement of the employee

concerned on superannuation and the concerned Treasury Officer, thereafter shall release the pension in accordance with the Revised Pension Payment Order.

Entire exercise in this regard is required to be completed within a period of twelve weeks from the date of communication of this order.

W.P.A. 1758 of 2023 stands disposed of with the above directions. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)