15.06.2023
Item No. 146
Court No.18
SK

W.P.A. 13534 of 2023

Shubhra Chattopadhyay
-Vs-
The State of West Bengal & Ors.

Mr. Arun Khutia
……for the petitioner.

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

In spite of service none appears on behalf of the State-respondents.

The husband of the petitioner was an Assistant Teacher, on January 31, 2012, he retired from his said service on superannuation and expired on November 25, 2021.

The petitioner is claiming that her husband 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 petitioner 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 petitioner by the instant writ petition is praying for issuance of a writ of mandamus commanding the respondents to release the arrear pension from the date following such date of retirement of the employee concerned.

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 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 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 petitioner with effect from the date following such date of retirement of the concerned employee 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. 13534 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.)