

07.12.2023.
Court No. 13
Item no. 241.
sp

W.P.A. No. 13935 of 2023

Kunal Ghosh & Anr.
Versus
The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya)
..For the petitioners.

Affidavit of service filed in Court today is
taken on record.

The issue to be decided in the present writ
petition is whether legal heirs of 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 petitioners' father retired from service
on attaining the age of superannuation on
31.03.2005. The employee died on 27.04.2017.
The wife of the employee died on 02.05.2021.

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 petitioners'

father exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 29.08.2014.

Pension Payment Order was issued in favour of the employee concerned with effect from the date of refund of the employer's share of contribution.

The petitioners claim that pension ought to have been released on and from the next date of retirement and not from the date of refund of the employer's share of contribution.

A similar issued 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.

The teacher died on 27.04.2017 and accordingly the revised pension payment order is required to be issued in favour of the petitioners.

Instant writ petition is 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 employee father

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 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.

Accordingly, the writ petition 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.

(Rajasekhar Mantha, J.)