

W.P.A. 17522 of 2022

Parimalendu Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Partha Sarathi Deb Barman,
Mr. Pankaj Halder,
Mr. Tapas Manna ... For the petitioner.

Mr. L. K. Gupta, Sr. Adv.,
Mr. Ranjay De,
Mr. B. Banerjee ... For the respondent nos. 5 & 6.

Ms. Sanghamitra Nandy,
Mr. Debapriya Chatterjee ... For the State.

The petitioner was an approved Assistant Teacher of Sarisha Ramkrishna Mission Siksha Mandir and has retired from his service on superannuation on May 31, 1997.

The petitioner is alleging that though initially he was a member of the contributory provident fund- cum-gratuity (CPF) scheme but in terms of the Memorandum bearing No. 496-Edn(B)/IM-39/31 dated December 16, 1991 had opted for pension including family pension-cum-gratuity (GPF) scheme and exercised option to the said effect within the time prescribed by the said memorandum but till date the authorities have not provided him the benefit of the said GPF scheme.

Mr. Debbarman, learned counsel for the petitioner submits that his client admittedly had exercised option to switch over from CPF to GPF scheme within the prescribed period, nonetheless such option could be exercised by him afresh within the time extended by 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** but the petitioner has been unreasonably denied the benefit of the pension scheme.

Mr. Gupta, learned senior counsel appearing on behalf of the school authority submits that to avail the benefit of the GPF scheme, the petitioner is not only required to exercise the option to switch over from the CPF scheme to the said scheme within the prescribed period of time but he is also required to refund the employer's share of contribution with interest and additional interest to the Government, the petitioner did not refund the said contribution, he continued to deposit his share of the contribution in his provident fund account, besides the petitioner, time to time, withdrew money from his provident fund account.

Mr. Gupta further submits that after the said judgment of the Special Bench, the school authority had invited the petitioner to exercise option to switch over from the earlier the scheme to the new scheme afresh but the petitioner did not respond.

Having heard the learned counsel for the parties and on going through the materials-on-record, it appears that the petitioner though had exercised revised option to avail the benefit of pension including family Pension-cum-gratuity within the prescribed period of limitation but did not comply with the requirement of the aforesaid memorandum dated December 16, 1991 to refund the employer's share of contribution with interest and additional interest. The petitioner also did not respond to the call of the employer to file option afresh in terms of the said judgment of the Special Bench of this Court.

The records reveal that in spite of exercising the option to avail the benefit of the pension scheme, the petitioner and the school authority continued to deposit their respective contributions in the said provident fund account, besides

the petitioner time to time withdrew money from his provident fund account.

The petitioner, for the aforesaid reasons, is not entitled to the relief as prayed for, consequently W.P.A. 17522 of 2022 is dismissed without any order as to costs.

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

(Biswajit Basu, J.)