

11.12.2023
SL No. 256
Court No. 13
ap

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 19041 of 2023

Jyotshna Sarkar
Vs
The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya).
... for the petitioner.

Mrs. Rupsha Chakraborty.
...for the State.

Affidavit of service along with the report of the State filed in Court today are kept with the record.

The issue to be decided in the present writ petition is whether the widow 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 husband of the petitioner retired from service on attaining the age of superannuation on 30.11.2000. The employee died on 04.12.2017.

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 petitioner's husband exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 08.09.2014.

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

The petitioner claims 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 issue 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 04.12.2017 and accordingly the revised pension payment order is required to be issued in favour of the widow of the deceased employee.

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 petitioner's husband 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 petitioner 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.

For the aforesaid purpose, the DI of Schools concerned shall process the claim for arrears of pension and make/forward a necessary recommendation/sanction to the DPPG expeditiously. The DPPG in turn shall act based on such recommendation/sanction.

The instant writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Rajasekhar Mantha, J.)

