

07.12.2023.
Court No. 13
Item no. 266.
sp

W.P.A. No. 20707 of 2023

Bijay Kumar Sarkar & Anr.
Versus
The State of West Bengal & Ors.

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

Mr. Vimal Kr. Shahi,
Mr. Vijay Agarwal
...for the State

Affidavit of service and report of the State
filed in Court today are taken on record.

The issue to be decided in the present writ
petition is whether the 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 employee father retired from service
on attaining the age of superannuation on
31.01.2002. The employee died on 13.05.2017.

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 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 09.09.2014.

Pension Payment Order was issued in favour of the employee father 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 (Sitla 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 13.05.2017 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 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.

Let notice of this order be served on the D.I., Purba Bardhaman.

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.)