

14.03.2023
Item No.194 of M. List
Court No.18
P.Jana

W.P.A. 21314 of 2022

Duli Rani Basak
-Vs-
The State of West Bengal & Ors.

Mr. Washef Ali Mondal,
.....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 of a secondary school and retired from his
said service on superannuation on October 31, 1999
and died on June 17, 2018.

The petitioner is claiming that the employee
concerned 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 in favour of the
concerned teacher with effect from the date of the
aforesaid refund of the said employer's share of
contribution, 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 petitioner is entitled to the arrear pension, as prayed for. The concerned District Inspector of School (SE) is directed to verify the records expeditiously to ascertain as to whether the concerned teacher 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 teacher 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. 21314 of 2022 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.)