

11. 17.03.2023
bd. Ct.15

W.P.A. 22743 of 2015
IA CAN 1/2019 (Old CAN 4581/2019) CAN 2/2019
(CAN 4808 of 2019) CAN 3 of 2019 (Old CAN 7469/2019)
Arabinda Maiti
-vs-
The State of West Bengal & Ors.

Mr. Saktipada Jana

....for the petitioner.

Affidavit-of-service filed by the petitioner is taken on record.

Petitioner is a retired assistant teacher who superannuated on 31st August, 2007 and got the benefit under the Contributory Provident Fund Scheme (CPF). Subsequently, petitioner exercised option to come under the Pension-cum-Gratuity Scheme in terms of Government notification dated 13th June, 2014 which was issued in terms of the judgment of the Special Bench dated 16th July, 2013 passed on intra court appeal being APO No.94 of 2009 (State of West Bengal & Ors. -vs- Abhijit Baidya & Ors.).

It has also been submitted on behalf of the petitioner that as per demand of the State respondents he has deposited the amount along with interest and additional interest which he received under CPF Scheme.

However, the grievance of the petitioner is

after taking steps in terms of the said notification dated 13th June, 2014 by issuing pension payment order dated 3rd February, 2015 pensionary benefit was sanctioned in favour of the petitioner not from the date following the date of his retirement but from the date of refund which he made after exercising option in terms of the said notification dated 13th June, 2014. Petitioner claims issuance of revised pension payment order thereby sanctioning pensionary benefits from the date following the date of his superannuation based on the judgement of the Special Bench dated 30th September, 2019 passed on intra Court appeal being APO No.121 of 2007.

Affidavit of service and the subsequent notice dated 16th March, 2023 are placed before this Court today which are taken on record.

The State respondents are not represented by the learned advocate.

Mr. Jana, learned advocate representing the petitioner has placed reliance on the order passed by this Court dated 5th September, 2022 passed on a writ petition being WPA 30384 of 2015 (Dipak Kumar Sinha –vs- The State of West Bengal & Ors.). It appears from the said order dated 5th September, 2022 that in the similar fact situation

this Court has passed an order directing the respondents authorities to issue revised pension payment order in favour of the retired teacher thereby sanctioning pensionary benefits from the date following the date of superannuation of the teacher till the date of refund.

It appears that the petitioner did exercise option within time in terms of the said notification dated 13th June, 2014 and the petitioner on duly exercising option in terms of notification dated 13th June, 2014 switched over from CPF to Pension-cum-Gratuity Scheme. On placing reliance on paragraph 55 of the judgment of the Special Bench dated 30th September, 2019, this Court does not find any impediment in extending the benefit of pension to the petitioner from the date following the date of his retirement provided exercise of option is made within time and refund has been made as per the calculation of the State respondents.

Accordingly, this Court directs the State respondents to issue revised pension payment order in favour of the petitioner within twelve weeks from this date thereby extending the benefit of pension from the date following the date of his superannuation subject to the condition that the petitioner exercised option in due time in terms of

the said notification dated 13th June, 2014 and refunded the amount as per calculation of the State respondents.

With the above direction, the writ petition stands disposed of. Applications if pending, also stand disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)