

11.12.2023.
Court No. 13
Item no. 322
sp

W.P.A. No. 23076 of 2023

Madhusudan Acharjya
Versus
The State of West Bengal & Ors.

Mr. Banshi Badan Maity

..For the petitioner.

The issue to be decided in the present writ petition is whether 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 wife of the petitioner retired from service on attaining the age of superannuation on 31.08.2006 and died on 21.05.2021.

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 exercised option to switch over from CPF to GPF and refunded the employer's share of

contribution with interest and additional interest on 06.02.2015.

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 issued has been decided by this Court in the matter of WPA No. 964 of 2022 (Sitala Mandal (Chaudhuri) -vs- State of West Bengal & Ors.).

As the teacher died in the meantime, accordingly, the revised pension payment order is required to be issued in favour of the heir 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 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.

Affidavit of service kept with the record.

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.)