

34 24.7.2023
Sc Ct. no.22

WPA 23077 OF 2016

Chitta Ranjan Neogi

Vs.

The State of West Bengal & Ors.

Mr. Lakshminath Bhattacharya

....For the Petitioner

Mr. Bhaskar Prasad Vaisya

Mr. Mrinal Kanti Ghosh.

....For the Respondent

Nos. 1 and 3

The previous order speaks for itself.

Today, the writ petition appeared under the heading "***For Dismissal***".

Mr. Lakshminath Bhattacharya, learned advocate appeared for the petitioner.

Mr. Mrinal Kanti Ghosh, learned advocate led by Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader appeared for the respondent nos. 1 and 3.

The rest of the respondents are not represented.

Though the writ petition had appeared under the heading "***For Dismissal***" but since the relevant parties are present and they have agreed that, this writ petition may be considered today and also considering the issue involved in this writ petition, the same is taken up for consideration and for disposal as any further pendency of this writ petition which is pending since **2016** will not serve any useful purpose for anybody.

The petitioner claimed to be an Assistant Teacher. The ***petitioner retired on September 30, 2008.*** The petitioner converted himself to avail of the scheme from ***Contributory Provident Fund (CPF) to General Provident Fund (GPF) on August 20, 2014.*** Owing to such change of option the ***petitioner had refunded and returned the relevant amount received by him under CPF to the State employer on September 8, 2014*** when the necessary ***Pension Payment Order (PPO) was issued with effect from September 8, 2014.***

In view of the above, the petitioner claimed that ***Pension Payment Order (PPO) should be issued from the date of retirement and not from the date of refund.***

The petitioner submitted a representation dated ***May 24, 2016 at page 17*** to the writ petition, *inter alia*, before the respondent no.2, the appropriate authority.

Mr. Lakshminath Bhattacharya, learned advocate appearing for the petitioner on the issue and in support of his contention relied upon a judgment of a coordinate Bench rendered in ***WPA 964 of 2022, In the matter of : Sitala Mandal (Chaudhuri) Vs. The State of West Bengal & Ors.***

After considering the submissions made on behalf of the appearing parties and upon perusal and plain reading of the said judgment of the coordinate Bench ***In the matter of : Sitala Mandal (Chaudhuri) (supra)*** I

am in respectful agreement therewith. Inasmuch as, when the petitioner being the State employer had returned the necessary amount to the State employer after conversion of his ***Provident Fund Account from CPF to GPF***, no unjust enrichment was enjoyed by the petitioner. Therefore, the retiral benefit must reckon from the date of retirement of the petitioner.

In view of the above, the respondent no. 2 is directed to consider the representation of the petitioner dated ***May 24, 2016 at page 17*** to the writ petition in the light of the law laid down by the coordinate Bench ***In the matter of : Sitala Mandal (Chaudhuri) (supra)*** and shall decide the issue and pass its reasoned order in accordance with law.

The petitioner shall communicate this order along with a copy of the writ petition to the respondent no.2 for expeditious disposal of the issue.

The entire exercise as directed above shall be carried out and completed by the respondent no.2 positively within a period of four weeks from the date of communication of this order along with a copy of the writ petition as directed above.

The respondent no.2 then shall communicate his reasoned decision to the petitioner and the respondent no.3 positively within a period of two weeks from the date of the reasoned order to be passed.

After considering the issue the respondent no.2 shall take all further and consequential steps expeditiously for issuing the **Revised Pension Payment Order** in favour of the petitioner positively within a period of **three weeks** from the date of the said reasoned order to be passed and shall release all the necessary payments receivable by the petitioner out of his employment strictly in accordance with law without any interruption.

On the above terms this writ petition, **WPA 23077 of 2016** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)