

03. 20.11.2023
bd. Ct.15

WPA 20333 of 2012

Smt. Sitima Kolay

-vs-

The State of West Bengal & Ors.

Mr. Lalratan Mondal

... for the petitioner

Mr. Pinaki Dhole

Ms. Kakali Samajpati

... for the State

Petitioner being an Assistant Teacher of Municipal Free Primary School under South Dum Dum Municipality has instituted this writ petition with the prayer to allow her to switch over from Contributory Provident Fund-cum-Gratuity to Pension-cum-Gratuity Scheme. It is also submitted on behalf of the petitioner that several representations have been made to the concerned respondent authorities so that petitioner can be permitted to change the option and get the benefit of Pension-cum-Gratuity scheme on conversion.

In spite of service of notice upon South Dum Dum Municipality the said municipality is not represented today. However, State respondents are represented by Mr. Dhole, learned advocate who has opposed the prayer of the petitioner on the ground that a letter was issued on 24th September, 2004 whereby prayer of the petitioner for conversion from Contributory Provident Fund cum Gratuity to Pension-cum- Gratuity has been turned down and the said decision of the municipality as contained in the letter dated 24th September, 2004 is not under challenge in the present writ petition.

According to the State respondents in absence of challenge to the letter dated 24th September, 2004 the prayer of the writ petitioner cannot be acceded to.

Having considered the submissions made on behalf of the learned advocates representing the petitioner and the State respondents it appears that the petitioner was an assistant teacher of Municipal Free Primary School who filed the "Option Form" on 17th February, 1983 to get the retiral benefits under Contributory Provident Fund-cum-Gratuity Scheme. The petitioner retired on 31st January, 2007 and the retiral benefits under the Contributory Provident Fund-cum-Gratuity Scheme were calculated and made ready for disbursal in favour of the petitioner as it emanates from the letter of the Chairman of the Municipality dated 19th February, 2007. It has been submitted on behalf of the petitioner as well as State respondents that the petitioner did not receive the amount which was calculated under Contributory Provident Fund-cum-Gratuity Scheme since she was praying for switching over from Contributory Provident Fund to Pension-cum-Gratuity Scheme.

In absence of challenge being thrown to the letter dated 24th September, 2004 issued by the Chairman South Dum Dum Municipality the prayer of the petitioner for conversion cannot be countenanced. It also needs to be recorded that nothing has been shown to this Court during hearing on existence of provisions which permits switching over from Contributory Provident Fund-

cum-Gratuity to Pension-cum-Gratuity.

In view of aforesaid the prayer made in this writ petition for switching over is not allowed. However, on perusal of the letter dated 19th February, 2007 issued by the Chairman, South Dum Dum Municipality it appears that a cheque to the tune of Rs. 6,17,807 was issued in favour of the petitioner. The concerned respondent authorities are directed to release final provident fund dues along with admissible interest and other dues if the same is payable to the petitioner within six weeks from the date of communication of this order, provided by this time the amount has not been received by the petitioner.

With the aforesaid direction the writ petition stands disposed of.

The notice dated 16th November, 2023 served upon the Chairman, South Dum Dum Municipality, filed today is taken on record.

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.)