

21. 06.12.2023  
Bd. Ct.15

W.P.A. 25060 of 2023

Nilima Banerjee (Mukherjee)

-vs-

The State of West Bengal & Ors.

Mr. Uttam Kumar Roy

....for the petitioner.

Mr. Rajaram Banerjee

....for the State.

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

Petitioner is a retired Assistant Teacher who superannuated on 28<sup>th</sup> February, 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 13<sup>th</sup> June, 2014 which was issued in terms of the judgment of the Special Bench dated 16<sup>th</sup> 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 petitioner has deposited the amount along with interest and additional interest which petitioner received under CPF Scheme.

However, the grievance of the petitioner is

after taking steps in terms of the said notification dated 13<sup>th</sup> June, 2014 by issuing pension payment order dated 4<sup>th</sup> August, 2015 pensionary benefit was sanctioned in favour of the petitioner not from the date following the date of petitioner's retirement but from the date of refund which petitioner made after exercising option in terms of the said notification dated 13<sup>th</sup> June, 2014. Petitioner claims issuance of revised pension payment order thereby sanctioning pensionary benefits from the date following the date of petitioner's superannuation based on the judgment of the Special Bench dated 30<sup>th</sup> September, 2019 passed on intra Court appeal being APO No.121 of 2007.

The State respondents are represented by learned advocates who has also submitted that based on the judgment dated 30<sup>th</sup> September, 2019 of the Special Bench the benefit of pension is accorded to other similarly circumstanced retired teachers from the date following the date of their superannuation provided exercise of option has been made within time in terms of said notification dated 13<sup>th</sup> June, 2014 and if the refund is made by the concerned teacher as per the calculation of the State respondents.

This Court has perused the writ petition and heard the learned advocates representing the

parties and has perused the relevant materials available on record.

It appears that the petitioner did exercise option within time in terms of the said notification dated 13<sup>th</sup> June, 2014 and the petitioner on duly exercising option in terms of notification dated 13<sup>th</sup> 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 30<sup>th</sup> 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 petitioner's 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 petitioner's superannuation.

With the above direction, the writ petition stands 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.)**