

10
04.08.2023
Ct. No.2
b.das

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA No. 1614 of 2023

Montosh Sarkar
Vs.
The State of W.B. & Ors.

Mr. Debajit Kundu
Mr. Subir Kr. Saha
Mr. M. Rahman

...for the petitioner.
..for the State.

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

The petitioner was an Assistant Teacher of primary school and superannuated on 31st July, 2004. The petitioner initially exercised option under the Contributory Provident Fund-cum-Gratuity for which the case of the petitioner was not considered within the purview of the West Bengal Recognized Non-Government Educational Institution Employees (Death-cum-Retirement Benefit Scheme), 1981 for getting pension. The petitioner has received gratuity as per the Pension Payment Order issued by the concerned Authority. In terms of a Notification published by the School Education Department the petitioner exercised option to come under the New Revised Pay Scale as per ROPA Rules, 1990. The

petitioner was initially not allowed to switch over to the General Provident Fund Scheme (In short 'GPF Scheme') from the Contributory Provident Fund Scheme (In short 'CPF Scheme'). Pursuant to several judgments passed by this Court the petitioner was allowed to switch over from the CPF Scheme to GPF Scheme and refunded the employer's share of contribution along with interest on 15th September, 2014. Pension Payment Order was issued in her favour with effect from 15th September, 2014.

It is contended on behalf of the petitioner that in view of the judgments passed by this Court, the petitioner is entitled to pension from the date following the date of retirement of the petitioner in accordance with DCRB Rules.

It is submitted on behalf of the State respondents that the prayer of the petitioner may be allowed subject to the petitioner depositing the employer's share of contribution along with interest and additional interest thereon. The petitioner has deposited the employer's share of contribution along with interest and additional interest thereon on 15th September, 2014.

In view of the above, the writ petition is disposed of directing the Director of Pension, Provident Fund & Group Insurance, West Bengal and the Treasury Officer, Mekhliganj being the

respondent Nos.4 and 5 herein to verify the relevant records and in the event it is found that the petitioner has exercised option and has refunded the employer's share of contribution along with interest and additional interest thereon within the specified time period, the concerned Authorities are directed to take steps for issuance of revised Pension Payment Order in favour of the petitioner with effect from the date following the date of superannuation of the petitioner. The Authorities are further directed to release the arrear pension in accordance with the revised Pension Payment Order within two months from the date of communication of this order.

With the above observations and directions the writ petition is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)