

19.02.2024  
SL No. 84  
Court No. 13  
ap

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**W.P.A. 638 of 2024**

**Malati Sarkar**  
**Vs**  
**The State of West Bengal & Ors.**

Mr. Banshi Badan Maity.  
... for the petitioner.  
Mr. Sandip Chattopadhyay.  
....for the State.

Affidavit-of-service filed in Court today be kept  
with the record.

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 husband of the petitioner retired from service  
on attaining the age of superannuation on 30.09.2013  
and died on 29.10.2019.

In response to the notification published by the  
School Education Department being No. 79-  
SE(L)/SL/5S-56/13(Pt-V) dated 13<sup>th</sup> June, 2014 issued  
in compliance of the direction passed by the Hon'ble  
Special Bench of this Court in the judgment dated 16<sup>th</sup>

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 14.08.2014.

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

The judgment passed in the aforesaid matter on 8<sup>th</sup> February, 2022 will cover the present writ petition.

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 husband of the petitioner exercised option and refunded the employer's share of contribution within the time specified in the notification dated 13<sup>th</sup> 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.

The instant writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

***(Rajasekhar Mantha, J.)***