

23.02.2024
(D/L-22)
Ct.-18
(Susanta)

W.P.A. 2799 of 2024

Nityagopal Roy
Vs.
The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Soumya Sankar Chini,
Mr. Abir Ranjan Neogi,
... For the petitioner.
Mr. Avijit Sarkar,
Mr. Manas Kumar Sadhu,
... For the State.

Affidavit-of-service filed on behalf of the petitioner be
kept with the record.

As prayed for leave is granted to learned Counsel for the
petitioner to add the left out party respondent to the writ
petition.

Mr. Sarkar, learned Counsel for the State files a report
on behalf of the District Inspector of Schools (S.E) the added
respondent no. 9 herein, let it be kept with the record.

The petitioner was an Assistant Teacher of a Higher
Secondary School, on attaining the age of superannuation he
has retired from his said service on April 30, 2009.

The petitioner is claiming to have exercised option to
switch over to Pension-cum-Gratuity from CPF-cum-Gratuity
and refunded the employer's share of contribution with
interest and additional interest within the time limited by the
notification of the Government of West Bengal bearing No.
749-SE(L)/SL/5S-56/13(Pt-V) dated June 13, 2014.

The grievance of the petitioner is that the Pension Payment Order was issued with effect from the date of the aforesaid refund, instead from the date following the date of his retirement on superannuation.

The petitioner by the instant writ petition is praying for issuance of a writ of mandamus commanding the respondents to release the arrear pension from the date following such date of retirement.

In view of the judgment of the Special Bench of this Court in the case of ***DISTRICT INSPECTOR OF SCHOOLS(SE), KOLKATA vs. ABHIJIT BAIDYA*** reported in **2013(3) CHN (CAL) 711** and in view of subsequent clarification of some of the paragraphs of the said judgment by the Special Bench in its order dated **September 30, 2019** on **G.A. 464 of 2018**, the issue is no longer *res integra*.

The concerned District Inspector of School (S.E.) is directed to verify the records expeditiously to ascertain as to whether the petitioner had exercised the said option and refunded the employer's share of contribution within the time limited by the aforesaid notification dated June 13, 2014.

In the event, it is found that the said option was so exercised, the said authority shall process the claim of the petitioner for arrears of pension and shall forward the necessary recommendation and/or sanction to the Director of Pension, Provident Fund and Group Insurance, who, in turn, shall take steps to issue Revised Pension Payment

Order in favour of the petitioner with effect from the date following the date of his retirement on superannuation and the concerned Treasury Officer, thereafter shall release the pension in accordance with the Revised Pension Payment Order.

Entire exercise in this regard is required to be completed within a period of twelve weeks from the date of communication of this order.

W.P.A. 2799 of 2024 stands disposed of with the above directions. There shall be no order as to costs.

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

(Biswajit Basu, J.)