

04.04.2024
Court No. 13
Item no. 25.
sp

W.P.A. No. 3632 of 2024

Shyam Sundar Bhunia

Versus

The State of West Bengal & Ors.

Mr. Subhrangsu Panda,

Ms. Mithu Singha Mahapatra,

Ms. Ina Bhattacharya,

Ms. Haritri Roy

..for the petitioner.

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

Leave is granted to the petitioner to correct the synopsis.

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 father of the petitioner retired from service on attaining the age of superannuation on 31.12.1983 and died on 07.01.2015. The mother of the petitioner died on 22.12.2014.

In response to the notification published by the School Education Department being No. 79-SE(L)/SL/5S-56/13(Pt-V) dated 13th June, 2014 issued in compliance of the direction passed by the Hon'ble Special Bench of this Court in the judgment dated 16th 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 22.09.2014 and P.P.O. was issued but immediately after issuance of the P.P.O., the father of the petitioner died, thereby the pension was not disbursed to the father of the petitioner.

Pension Payment Order was issued in favour of the father of the petitioner with effect from the date of refund of the employer's share of contribution but no amount was paid to the father of the petitioner due to sudden death of the father of the petitioner.

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 including all arrears thereto.

A similar issued 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 8th 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 petitioner exercised option and refunded the employer's share of contribution within the time specified in the notification dated 13th 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 and also arrear thereto. 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 and also arrear pension which was not paid due to death of the father of the petitioner.

With these observations, the writ petition is disposed of.

There will be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties

expeditiously on compliance of usual legal formalities.

(Rajasekhar Mantha, J.)