

08.04.2024
SL No. 176
Court No. 13
g.b.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 5938 of 2024

Akhterun Nisha
Vs
The State of West Bengal & Ors.

Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya
Ms. M. Singha Mahapatra

... for the petitioner

Mr. Sailendranath Chakraborty
Mr. Mahadeb Sarkar
.....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 31.11.2003
and died on 05.04.2023.

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 husband of 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 11.09.2014.

Pension Payment Order was issued in favour of the husband 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 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 husband of 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. 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.)