

19.04.2024
(D/L-68)
Ct.-18
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

W.P.A. 7588 of 2024

Himanshu Sekhar Mukhopadhyay
-Vs-
The State of West Bengal & Ors.

Mr. Sreyash Basu Dasgupta
.... For the Petitioner.

Affidavit-of-service and supplementary affidavit
filed by the learned advocate for the petitioner be
kept with the record.

In spite of service, none appears on behalf of
the State-respondents.

The petitioner was an approved Assistant
Teacher of a secondary school and retired from his
said service on superannuation on October 26, 2006.

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 (SE) 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 arrear 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 7588 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.)