

**ML 124
14.08.2024
Ct.18
adeb**

W.P.A. 7837 of 2023

Nisith Kumar Mukherjee

-vs-

The State of West Bengal & Ors.

Mr. G.F. Hossain
Ms. Varsha Roy

....for the petitioner.

Mr. Biswajit De
Ms. Rajlakshmi Ghatak
Mr. Rajendra Chaturvedi
Ms. Oindrila chatterjee

...for the State

Affidavit-of-service filed by the petitioner is
taken on record.

Petitioner is a retired assistant teacher who
superannuated on 31st July, 2003 and got the
benefit under the Contributory Provident Fund
Scheme (CPF). Subsequently, petitioner exercised
option to come under the Pension-cum-Gratuity
Scheme in terms of Government notification dated
13th June, 2014 which was issued in terms of the
judgment of the Special Bench dated 16th July,
2013 passed on intra court appeal being APO No.94
of 2009 (State of West Bengal & Ors. -vs- Abhijit
Baidya & Ors.).

It has also been submitted on behalf of the
petitioner that as per demand of the State
respondents he has deposited the amount along

with interest and additional interest which he received under CPF Scheme.

However, the grievance of the petitioner is after taking steps in terms of the said notification dated 13th June, 2014 by issuing pension payment order dated 27th August, 2015 pensionary benefit was sanctioned in favour of the petitioner not from the date following the date of his retirement but from the date of refund which he made after exercising option in terms of the said notification dated 13th June, 2014. Petitioner claims issuance of revised pension payment order thereby sanctioning pensionary benefits from the date following the date of his superannuation based on the judgment of the Special Bench dated 30th September, 2019 passed on intra Court appeal being APO No.121 of 2007.

The State respondents are represented by learned advocates who has also submitted that based on the judgment dated 30th September, 2019 of the Special Bench the benefit of pension is accorded to other similarly circumstanced retired teachers from the date following the date of their superannuation provided exercise of option has been made within time in terms of said notification dated 13th June, 2014 and if the refund is made by the concerned teacher as per the calculation of the State respondents.

This Court has heard the learned advocates representing the parties and has perused the relevant materials available on record.

It is nobody's case that the petitioner did not exercise option within time in terms of the said notification dated 13th June, 2014 and the petitioner on duly exercising option in terms of notification dated 13th June, 2014 switched over from CPF to Pension-cum-Gratuity Scheme. On placing reliance on paragraph 55 of the judgment of the Special Bench dated 30th September, 2019, this Court does not find any impediment in extending the benefit of pension to the petitioner from the date following the date of his retirement provided exercise of option is made within time and refund has been made as per the calculation of the State respondents.

Accordingly, this Court directs the State respondents to issue revised pension payment order in favour of the petitioner within twelve weeks from the date of communication of this order thereby extending the benefit of pension from the date following the date of his superannuation.

With the above direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order,

if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)