

09 05.07.2024
rkd Ct.18

W.P.A. 16545 of 2024

Anath Bandhu Saha
-vs-
State of West Bengal & Ors.

Mr. K. K. Paul

....for the petitioner.

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

Petitioner is a retired assistant teacher who superannuated on 31st January, 2011 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 11th March, 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 judgement of the Special Bench dated 30th September, 2019 passed on intra Court appeal being APO No.121 of 2007.

This Court has passed orders in similar cases where refund has been made by retired teachers as per notification dated 13th June, 2024.

In spite of service State is not represented.

It is nobody's case that the petitioner did not exercise option within time in terms of the said notification dated 13th June, 2014 since the petitioner duly on 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 subject to the condition that the petitioner exercised option in due time in terms of the said notification dated 13th June, 2014 and refunded the amount as per calculation of the State respondents.

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.)