

11.07.2024
Sl. No.10
g.b.
Court No.18

WPA 17243 of 2024

Lutfunnessa Khatun
-Vs-
The State of W. B. & Ors.

Sm. Samim Ullah
Mr. Avishek Prasad
Mr. Sakir Hossain
.....For the Petitioner
Ms. Tapati Samanta
.....For the State

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

Husband of the petitioner was an assistant teacher in a Government aided school who died on 3rd August, 2017. The husband of the petitioner retired on superannuation on 30th September, 2002 and got the benefit under the Contributory Provident Fund Scheme(CPF). Subsequently, husband 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 her husband 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 1st April, 2015 pensionary benefit was sanctioned in favour of the petitioner's husband not from the date following the date of his retirement but from the date of refund which husband 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 husband's 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's husband did not exercise option within time in terms of the said notification dated 13th June, 2014 and the husband 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 retirement of her husband 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 this date thereby extending the benefit of pension from the date following the date of superannuation of petitioner's husband.

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.)