

18 31.07.2024
rkd Ct.18

W.P.A. 18615 of 2024

Sujit Kumar Sarkar

-vs-

The State of West Bengal & Ors.

Mr. Dwarikanth Mukherjee,
Ms. Sreyasree Choudhury

....for the petitioner.

Mr. Sagnik Chatterjee,
Ms. Moumita Karmakar

....for the State.

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

Petitioner is a retired Clerk who
superannuated on 31st January, 2002 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 30th 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 judgment of the Special Bench dated 30th September, 2019 passed on intra Court appeal being APO No.121 of 2007.

State respondents are represented by learned advocates who submits that on similar set of facts order has been passed by the coordinate Benches directing the authority to release arrear pension from the date following the date of superannuation till the date of refund provided retired teacher/employee exercised option within time in terms of Government notification and refund has been made as per calculation of the

State respondents.

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.

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.)