

07.03.2024.
Court No. 13
Item no. 259.
sp

W.P.A. No. 18581 of 2023

Ila Chakraborty
Versus
The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya)
..for the petitioner.

Mr. Gourav Das,
Ms. Sabnam Basu
...for the State

Affidavit-of-service filed in Court today is
taken on record.

The issue to be decided in the present writ
petition is whether an employee will be entitled
to receive pension on and from the date
following retirement or from the date of refund
of the employer's share of contribution.

The husband of the petitioner died before
attaining the age of superannuation on
14.04.2005 and in terms of the G.O. dated
13.06.2014, the petitioner opted the option
within time and refunded the amount.

In response to the notification published
by the School Education Department being No.
79-SE(L)/SL/5S-56/13(Pt-V) dated 13th June,
2014 issued in compliance of the direction
passed by the Hon'ble Special Bench of this
Court in the judgment dated 16th July, 2013 in
the matter of District Inspector of Schools (S.E.),
Kolkata -vs- Abhijit Baidya the petitioner

exercised option to switch over from CPF to GPF and claims to have refunded the employer's share of contribution with interest and additional interest on 24.01.2023 in terms of the Hon'ble High Court's order in case No. WPO 18865 of 2017.

Pension Payment Order was issued in favour of the petitioner with effect from the date of refund of the employer's share of contribution.

The petitioner claims that pension and/or family pension ought to have been released on and from the next date of retirement and not from the date of refund of the employer's share of contribution.

A similar issue has been decided by this Court in the matter of WPA No. 964 of 2022 (Sitala Mandal (Chaudhuri) –vs- State of West Bengal & Ors.).

The judgment passed in the aforesaid matter on 8th February, 2022 will cover the present writ petition.

Instant writ petition is disposed of by directing the Director of Pension, Provident Fund and Group Insurance and the concerned Treasury Officer to verify the records, and in the event, it is found, that the petitioner exercised option and refunded the employer's share of contribution within the time specified in the notification dated 13th June, 2014, then steps shall be taken to issue Revised Pension Payment

Order in favour of the petitioner with effect from the date following the date of retirement and/or death of the husband of the petitioner and to release the pension in accordance with the Revised Pension Payment Order. Such steps shall be taken within a period of twelve weeks from the date of communication of a copy of this order. Payment shall positively be released immediately upon issuance of the Revised Pension Payment Order.

For the aforesaid purpose, the DI of Schools concerned shall process the claim for arrears of pension and make/forward a necessary recommendation/sanction to the DPPG expeditiously. The DPPG in turn shall act based on such recommendation/sanction

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Rajasekhar Mantha, J.)