

20-08-2024
Item No.57
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.20201 of 2024
Sainur Begam
-vs-
The State of West Bengal & Ors.

Mr. Banshi Badan Maity ...for the petitioner

Ms. Joyee Maiti ...for the State

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 retired from service on attaining the age of superannuation on July 31, 2005 and died on September 18, 2016.

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 case of **District Inspector of Schools (SE), Kolkata v. Abhijit Baidya** reported in 2013(3) CHN (Cal) 711, the husband of 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 August 27, 2014.

The pension payment order was issued in favour of the husband of the petitioner with effect from the date

of refund of the employer's share of contribution.

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

A similar issue has been decided by this court on February 8, 2022 in the case of **Sitala Mandal Chaudhri v. State of West Bengal & Ors.** passed in **WPA No.964 of 2022.**

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

As the teacher died in the meantime, accordingly, the revised pension payment order is required to be issued in favour of the heir of the deceased employee.

Hence the instant writ petition is disposed of by directing the Director of Pension, Provident Fund & Group Insurance, West Bengal and the concerned Treasury Officer to verify the records; and in the event it is found that the husband of 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 of following the date of retirement of her husband on superannuation 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 this order. Payment shall positively be released immediately upon issuance of the revised pension payment order.

Affidavit of service is taken on record.

The writ petition is disposed of.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]