

20-08-2024
Item No.59
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.20234 of 2024
Sri Niranjana Kanji
-vs-
The State of West Bengal & Ors.

Mr. Arijit Sarkar ...for the petitioner

Mr. Rezaul Hossain ...for the State

Affidavit of service filed in court be taken on record.

The petitioner was a teacher and retired from service on superannuation on May 31, 2010.

The petitioner is claiming to have exercised option to switch over to pension-cum-gratuity from CPF-cum-gratuity and refunded the employer's share of contribution with interest and additional interest within the time limited by the notification of the Government of West Bengal bearing No.749-SE(L)/SL/5S/13 (Pt.V) dated June 13, 2014.

The grievance of the petitioner is that the pension payment order was issued with effect from the date of the aforesaid refund, instead from the date following the date of his retirement on superannuation.

The petitioner by the instant writ petition is praying for issuance of a writ of mandamus commanding the respondents to release the arrear pension from the date following such date of retirement.

Learned advocate for the State-respondents does not oppose the prayer of the petitioner.

In view of the judgement of the 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 and in view of subsequent clarification of some of the paragraphs of the said judgement by the Special Bench in its order dated September 30, 2019 on G.A 464 of 2018, the issue is no longer *res integra*.

The petitioner is entitled to the arrear pension, as prayed for. The concerned District Inspector of Schools (PE) is directed to verify the records expeditiously to ascertain as to whether the petitioner had exercised the said option and refunded the employer's share of contribution within the time limited by the aforesaid nitrification dated June 13, 2014.

In the event it is found that the said option was so exercised, the said authority shall process the claim of the petitioner for arrears of pension and shall forward the necessary recommendation and/or sanction to the Director of Pension, Provident Fund and Group Insurance, who, in turn, shall take steps to issue revised pension payment order in favour of the petitioner with effect from the date following the date of his retirement on superannuation and the concerned Treasury Officer, thereafter shall release the pension in accordance with the revised pension payment order.

Entire exercise in this regard is required to be completed within a period of twelve weeks from the date of communication of this order.

The writ petition stands 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]