

ML- 02.09.2024
24 Ct.18
rkd

W.P.A. 21298 of 2024

Premansu Kumar Deyati

-vs-

The State of West Bengal & Ors.

Mr. Banshi Badan Maity

....for the petitioner.

Mr. Manas Kundu

....for the State.

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

At the time of call no one appears on behalf of the State respondents in spite of service of notice.

Mr. Manas Kundu, learned advocate who is present in Court and who normally represents the State respondents is requested to enter appearance on behalf of State respondents.

Let engagement of Mr. Kundu be regularized by the office of the learned Government Pleader.

Petitioner is a retired Assistant Teacher who superannuated on 31st January, 2012 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 19th June, 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.)