

31 02.09.2024
Ct.18
(Suvendu)

W.P.A. 21354 of 2024

Arati Hembram

-vs-

The State of West Bengal & Ors.

Ms. Sreyasree Choudhury

....for the petitioner.

Mr. Arunava Maity

....for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

Since no one is representing State respondents in spite of service, Mr. Arunava Maity, learned advocate who is present in Court and usually appears on behalf of the State respondents, is requested to enter appearance on behalf of the State respondents. Let engagement of Mr. Arunava Maity be regularized by the office of the learned Government Pleader.

The writ petitioner is a widow of a retired Assistant Teacher, who superannuated on 30th November, 2005 and got the benefit under the Contributory Provident Fund Scheme (CPF). Subsequently, husband of the 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.).

The husband of the petitioner died on 17th October, 2019 and accordingly claim is laid by the present petitioner for issuance of revised Pension

Payment Order.

It has also been submitted on behalf of the petitioner that as per demand of the State respondents husband of petitioner 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 15th May, 2015 pensionary benefit was sanctioned in favour of the employee not from the date following the date of his retirement but from the date of refund which the employee 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 husband's superannuation based on the judgment of the Special Bench dated 30th September, 2019 passed on intra Court appeal being APO No.121 of 2007.

Learned advocate has also submitted on behalf of the State respondents that based on the judgment dated 30th September, 2019 of the Special Bench the benefit of pension is accorded to other similarly circumstanced retired teachers and staff from the date following the date of their superannuation provided exercise of option has been made within time in terms of said notification dated 13th June, 2014 and if the refund is made by the concerned staff as per the calculation of the State respondents.

This Court has heard the learned advocates representing the parties and has perused the relevant materials available on record.

It is nobody's case that the teacher did not

exercise option within time in terms of the said notification dated 13th June, 2014 and the teacher on duly 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 arrear pension to the petitioner from the date following the date of teacher's 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 arrear pension from the date following the date of teacher's 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.)