

14 04.09.2024
rkd Ct.18

W.P.A. 21617 of 2024

Basanti Zaminder

-vs-

State of West Bengal & Ors.

Mr. Ashis Kumar Poul,
Ms. Tithi Paul

....for the petitioner.

Mr. K. N. Nabi

....for the State.

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

The husband of the petitioner was a retired assistant teacher who superannuated on 28th February, 1998 and got the benefit under the Contributory Provident Fund Scheme (CPF). Subsequently, petitioner's husband 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 retired teacher had 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 27th August, 2015 pensionary benefit was sanctioned in favour of her husband 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 superannuation of her husband based on the judgement 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 advocate who has submitted that in terms of the notification dated 13th June, 2014 similar benefits have been extended in favour of the widow of the deceased retired teachers and as such petitioner is also entitled to the benefits of arrear pension being the widow provided exercise of option is made by her husband within time and refund is made as per calculation made by the State

respondents.

It is nobody's case that the husband of the petitioner did not exercise option within time in terms of the said notification dated 13th June, 2014 since the petitioner's husband 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 retirement of her husband 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 her husband.

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.)