

04.09.2024
Court No. 18
Item No.31
(Suvendu)

WPA 21863 of 2024

Narayan Chandra Modak
-Versus-

State of West Bengal & Ors.

Mr. Sagnik Mukherjee
.....for the petitioner

Mr. Anwari Quraishi
Mr. Somnath Ghosh
.....for the State

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

Petitioner is a retired Clerk who
superannuated on 31st July, 2013 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 March, 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.

The State respondents are represented by learned advocate who has also submitted 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 appears that the petitioner did exercise option within time in terms of the said notification dated 13th June, 2014 and the petitioner 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 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.)