

25 01.10.2024
Ct.18
(Suvendu)

W.P.A. 24500 of 2024

Anupama Mandal & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Sourav Mitra
Ms. Pritikana Gantait

....for the petitioners

Mr. Jyoti Prakash Chatterjee
Mr. Goutam Basu

....for the State.

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

Petitioners are legal heirs of a deceased Assistant Teacher who superannuated on 30th September, 2000 and got the benefit under the Contributory Provident Fund Scheme (CPF). Subsequently, father of petitioners 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.).

In support of claim of the petitioners, legal heirs certificate dated 30th January, 2023 issued by the Collector, Paschim Medinipur is annexed to this writ petition at page 16.

Father of petitioners died on 26th August, 2017 and accordingly claim is laid by present

petitioners for issuance of revised Pension Payment Order.

It has also been submitted on behalf of the petitioners that as per demand of the State respondents father of petitioners has deposited the amount along with interest and additional interest which he received under CPF Scheme.

However, the grievance of the petitioners is after taking steps in terms of the said notification dated 13th June, 2014 by issuing Pension Payment Order dated 6th February, 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 he made after exercising option in terms of the said notification dated 13th June, 2014. Petitioners claim issuance of revised Pension Payment Order thereby sanctioning pensionary benefits from the date following the date of their father'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.

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 father of the petitioners did exercise option within time in terms of the said notification dated 13th June, 2014 and the father of petitioners 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 petitioners from the date following the date of employee'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 petitioners 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

employee'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.)