

28 26.11.2024
rkd Ct.18

W.P.A. 24935 of 2024

Binapani Roy (Biswas)

-vs-

The State of West Bengal & Ors.

Mr. Banshi Badan Maity

....for the petitioner.

Matter was taken up for consideration on 3rd October, 2024 when no one appeared for the State respondents and Court directed the learned advocate representing the petitioner to serve notice upon the learned advocate representing the State respondents.

Notice dated 13th November, 2024 is filed today and same is taken on record.

In spite of service of notice upon the learned advocate representing the State respondents those respondents are not represented.

Petitioner is a retired Assistant Teacher who superannuated on 29th February, 2008 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 petitioner has deposited the amount along with interest and additional interest which petitioner 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 14th July, 2015 pensionary benefit was sanctioned in favour of the petitioner not from the date following the date of petitioner's retirement but from the date of refund which petitioner 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 petitioner'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.

This Court has heard the learned advocate representing the petitioner 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 petitioner'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 this date thereby extending the benefit of pension from the date following the date of petitioner'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.)