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05.12.2024
Ct. No. 18
(ARPAN)

W.P.A. 27730 of 2024

**Kanan Mridha
Vs.
The State of West Bengal & Ors.**

Ms. Sanchayita De

...for the Petitioner

Mr. Arindam Mitra

...for the State

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

Matter is taken up on two consecutive occasions, yesterday and today when State respondents are not represented. Mr. Arindam Mitra, learned advocate is present in court who usually represents State respondents. Office of the learned Government Pleader is requested to regularize engagement of Mr. Arindam Mitra. Mr. Mitra is permitted to enter his appearance on behalf of the State respondents.

Petitioner being widow of a retired teacher has come up with the present writ petition for payment of arrear pension from the date following the date of superannuation of her husband till the date of refund which was made by her husband. Petitioner's husband was a retired Assistant Teacher who superannuated on 31st October, 2006 and got the benefit under the Contributory Provident Fund Scheme (CPF). Subsequently, he 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 A.P.O. No.94 of 2009 (*State of West Bengal & Ors. –vsAbhijit Baidya & Ors.*).

It has also been submitted on behalf of the petitioner that as per demand of the State respondents, her husband 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 27th April, 2015 pensionary benefit was sanctioned in favour of the petitioner's 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. Since her husband died on 12th September, 2023 petitioner claims issuance of revised pension payment order thereby sanctioning pensionary benefits from the date following the date of her husband's superannuation based on the judgment of the Special Bench dated 30th September, 2019 passed on intra Court appeal being A.P.O. No.121 of 2007.

The State respondents are represented by learned advocates 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 widows of 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 husband of the petitioner did not exercise option within time in terms of the said notification dated 13th June, 2014 and he 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 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 pension from the date following the date of her husband'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 this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Saugata Bhattacharyya, J.)