

05.07.2024
Court No.13
Item No.59
AP

**WPA 27813 of 2016
With
IA NO: CAN 1 of 2024**

**Sajal Bhattacharjee
Vs.
The State of West Bengal & Ors.**

Mr. Debdatta Sen
Mr. Prasun Ghosh
Ms. Ledia Dasgupta

... For the Petitioner.

In Re.: CAN 1 of 2024

1. The original writ petitioner, Sajal Bhattacharjee, died on 10th September, 2018.
2. CAN 1 of 2024 is an application for substitution of the legal heirs of the original writ petitioner, Sajal Bhattacharjee. The applicant Nos.1 and 2 in CAN 1 of 2024 are the widow and daughter respectively of deceased Sajal Bhattacharjee.
3. This Court notices that the applicant No.1, Krishna Chakraborty, widow of deceased Sajal Bhattacharjee is a necessary party to the instant proceeding.
4. The second applicant, Rajarshi Mondal, daughter of the deceased Sajal Bhattacharjee, is not a necessary party at this stage.
5. Liberty is, however, reserved to the said Rajarshi Mondal to seek any remedy in law that may be available to her in future.

6. In these circumstances, CAN 1 of 2024 is allowed to the extent of applicant No.1, Krishna Chakraborty.

7. The applicant No.1, Krishna Chakraborty, shall be substituted in the place and stead of the original writ petitioner, Sajal Bhattacharjee.

8. Advocate on record for the petitioner shall carry out necessary amendment in the cause title in course of the day.

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9. Despite service of notice, the respondents are not represented.

10. Affidavit of service filed in Court today is taken on record.

11. The petitioner exercised option for pension in terms of the Memo dated 13th June, 2014 issued by the School Education Department, Government of West Bengal and refunded the employer's contribution of CPF together with interest and further interest. He has been issued PPO and was enjoying pension from 14th October, 2014 i.e. the date of refund.

12. It has already clarified in the case of ***Md. Abdul Ghani Vs. State of West Bengal*** reported in **2019 SCC Online Cal 9326** that pension even after refund shall be payable from the date after the date of retirement of the concerned employee.

13. The original pensioner Sajal Bhattacharjee died on 10th September, 2018 during the pendency of the writ petition. The substituted writ petitioner namely Krishna Chakraborty shall be entitled to family pension on account of the service of her late husband, Sajal Bhattacharjee. A copy of the PPO issued to Sajal Bhattacharjee is annexed at page 45 of the writ petition.

14. In view of the above, this Court directs the DPPG, West Bengal to issue PPO to the substituted petitioner, Krishna Chakraborty, and pay arrears of pension to her from the next date of death of her husband i.e. 11th September, 2018 within a period of one month from the date of receipt of a copy of this order along with copies of the writ petition and CAN 1 of 2024.

15. As already stated in ***Md. Abdul Ghani Vs. The State of West Bengal & Ors. case (supra)*** that upon the exercise of option and refund, the concerned pensioner would be entitled to pension from the next day after the date of retirement.

16. Hence, the petitioner shall be entitled to arrears of pension that was payable to her late husband from 1st March, 2010 till 13th October, 2014.

17. The arrears payable to the petitioner for family pension from the date of her husband's death and as also the arrears of pension that was payable to the petitioner's husband from 1st March, 2010 till 13th October, 2014

shall carry interest at the rate of 7 percent per annum and shall be paid to the petitioner within a period of one month from the date of issuance of fresh PPO.

18. In default of payment as indicated hereinabove, the rate of interest shall increase to 9 percent per annum.

19. With the aforesaid direction, the writ petition is disposed of.

20. There shall be no order as to costs.

21. All parties are to act on a server copy of this order duly downloaded from the official website of this court.

(Rajasekhar Mantha, J.)