

S/L 12
11.12.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 28791 of 2024

Chalbal Sanyal

Vs.

The State of West Bengal & Ors.

Mr. Ratul Ghosal

...for the Petitioners.

Mr. Nilay Baran Mandal

...for the State.

Affidavit-of-service filed by the learned advocate for the petitioner be kept with the record.

In spite of service, none appears on behalf of the State, under such circumstances, this Court engages Mr. Nilay Baran Mandal, learned advocate who ordinarily appears on behalf of the State, to represent the State in the present matter, let his engagement be regularized; copy of the writ petition be served upon Mr. Mandal.

The petitioner was an approved Assistant Teacher and retired from her said service on superannuation on December 31, 2006.

The petitioner is claiming to have exercised option to switch over to Pension-cum-Gratuity from CPF-cum-Gratuity and refunded the employer's share of contribution with interest and additional interest within the time limited by the notification of the Government of West Bengal bearing No. 749-SE(L)/SL/5S-56/13(Pt-V) dated June 13, 2014.

The grievance of the petitioner is that the Pension Payment Order was issued with effect from the date of the

aforesaid refund, instead from the date following the date of her retirement on superannuation.

The petitioner by the instant writ petition is praying for issuance of a writ of mandamus commanding the respondents to release the arrear pension from the date following such date of retirement.

Mr. Mandal, learned advocate for the State does not oppose of the prayer of the petitioner.

In view of the judgment of the Special Bench of this Court in the case of ***DISTRICT INSPECTOR OF SCHOOLS(SE), KOLKATA vs. ABHIJIT BAIDYA*** reported in **2013(3) CHN (CAL) 711** and in view of subsequent clarification of some of the paragraphs of the said judgment by the Special Bench in its order dated **September 30, 2019** on **G.A. 464 of 2018**, the issue is no longer *res integra*.

The concerned District Inspector of School (PE) is directed to verify the records expeditiously to ascertain as to whether the petitioner had exercised the said option and refunded the employer's share of contribution within the time limited by the aforesaid notification dated June 13, 2014.

In the event, it is found that the said option was so exercised, the said authority shall process the claim of the petitioner for arrears of pension and shall forward the necessary recommendation and/or sanction to the Director of Pension, Provident Fund and Group Insurance, who, in turn, shall take steps to issue Revised Pension Payment Order in favour of the petitioner with

effect from the date following the date of her retirement on superannuation and the concerned Treasury Officer, thereafter shall release the arrear pension in accordance with the Revised Pension Payment Order.

Entire exercise in this regard is required to be completed within a period of twelve weeks from the date of communication of this order.

WPA 28791 of 2024 stands disposed of with the above directions without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)