

23.12.2024.
PB
Sl. No.262.
Ct. No.25.

WPA 30504 of 2016

Amrita Darnal (Nee Sinchuri)
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. Sk. Imtiajuddin,
Mr. Alauddin Ahmed.
... For the Petitioner.

Mr. Biswaljit De,
Mr. Raja Ram Banerjee.
....for the State.

The petitioner has challenged the order of the Deputy Secretary, Higher Education Department, Government of West Bengal, dated November 2, 2016, in this writ petition, by dint of which, her prayer before the said authority to switch over from the “Contributory Provident Fund Scheme”, to the “Pension cum Gratuity Scheme”, has been turned down by the said respondent authority.

Mr. Bari, learned advocate for the petitioner submits that the issues involved in the present case, are now well settled by dint of the judgment of the Hon’ble Division Bench dated July 26, 2023, in MAT

146 of 2019 (The State of West Bengal & Ors. Vs. Muktimoyee Pal (Dey) & Ors.).

So far as the present petitioner is concerned, Mr. Bari takes the Court to the annexed relevant documents, to submit that the petitioner has exercised her option to change over from the “CPF Scheme” to “Pension cum Gratuity Scheme”, by dint of her letter dated November 21, 2011. Secondly, vide T.R. Form No.7, the petitioner has deposited to the Treasury the entire Government share of Contributory Provident Fund as to arrear salary of ROPA-2006 along with interest, on March 10, 2014.

Hence, according to Mr. Bari, after exercising her option and depositing with interest the entire Government share of Provident Fund and in view of the law settled in this regard by the Hon’ble Division Bench as stated above, the sole course left for the respondent authority is to release her pension and gratuity in terms of the option exercised by the petitioner. It is worth noting that the writ petitioner has retired from service on and from December 1, 2015.

So far as the judgment of the Hon’ble Division Bench, as referred to and relied on by the petitioner as mentioned above, the learned advocate for the State respondent acknowledges the same. He has also submitted that the position of law is now settled pursuant to the said judgment of the Hon’ble Division

Bench. He seeks that directions be made upon the respondent, to consider the petitioner's case, in view of the settled law.

In this writ petition, the Court finds sufficient reason to hold that the decision of the Hon'ble Division Bench in the appeal being MAT 146 of 2019 would squarely govern the case of the present petitioner also.

The impugned order dated November 2, 2016, being in contravention with the settled proposition of law as decided in the said appeal, as mentioned above, the same is found to be not in conformity with the settled law and is, thus, liable to be set aside.

Therefore, the impugned order dated November 2, 2016, is set aside.

Since it appears from record that the petitioner has already exercised her option and deposited in the Government Exchequer, the share of "Contributory Provident Fund" along with the interest, back in the year 2014, there would not be any impediment for this Court to direct the respondent no.3 to immediately calculate, quantify and release to her, the pension, gratuity, family pension and other benefits as per revised option submitted by the petitioner. Hence, respondent no.3 shall immediately release the arrear salary (if any), pension with the arrear to the petitioner, taking into account the option submitted by her.

Let the entire exercise, as above, be concluded by the said respondent, within a period of two weeks from the date of communication of the copy of this order.

“Pension Payment Order” of the petitioner, if any, be revised immediately.

The writ petition is disposed of.

Needless to mention that the petitioner shall extend all possible cooperation with the respondent authority, in the exercise, as above, by supplying requisite documents.

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

(Rai Chattopadhyay, J.)S