

05.12.2024
Item No.5
Court No.2
AJ.

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

W.P.A. 1563 of 2024

Arsheda Begam

-Vs-

The State of West Bengal & Ors.

Mr. Sanjay Mazoomder,
Ms. Sukanya Adhikary.
.....for the petitioner.

Mr. Hirak Barman,
Ms. Pratusha Dutta Chowdhury.
.....for the State.

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

The husband of the petitioner was an Assistant
Teacher of a High Madrasah. On April 30, 2011, he
retired from his said service on superannuation and
died on November 09, 2019.

The petitioner is claiming that the concerned
employee had exercised option to switch over to
Pension-cum-Gratuity from CPF-cum-Gratuity and
had 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 the retirement of the
employee concerned 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 of the employee concerned.

Learned Advocate for the State respondents does not oppose 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 Schools (SE) is directed to verify the records expeditiously to ascertain as to whether the husband of 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 retirement of the employee concerned on superannuation and the concerned Treasury Officer, thereafter shall release the 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.

W.P.A. 1563 of 2024 stands disposed of with the above directions. There shall be no order as to costs.

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

(Biswajit Basu, J.)