

24.09.2024.
Court No. 2
Item No. 49
AGM

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A 2072 of 2024

**Mariam Ekka
-versus
The State of West Bengal & Ors.**

**Mr. Debajit Kundu.
...For the Petitioner.**

**Mr. Momenur Rahman,
Mr. Pradip Sarkar.
...For the State.**

Affidavit of service filed in Court is taken on record.

The issue to be decided in the present writ petition is whether an employee will be entitled to receive pension on and from the date of following retirement or from the date of refund of the employer's share of contribution.

The husband of the petitioner retired from service on attaining the age of superannuation on 29th February, 2004. He died on 18th July, 2021.

In response to the notification published by the School Education Department being 749-SE(L)/SL/5S-56/13(Pt-V) dated 13th June, 2014 issued in compliance of the direction passed by the Hon'ble Special Bench of this Court in the judgment dated 16th July, 2013 in the matter of District Inspector of Schools

(S.E.), Kolkata –vs– Abhijit Baidya the teacher exercised option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 31st January, 2015.

Pension Payment Order was issued in favour of the teacher with effect from the date of refund of the employer's share of contribution.

The petitioner claims that pension ought to have been released on and from the next date of retirement and not from the date of refund of the employer's share of contribution.

A similar issue has been decided by this Court in the matter of WPA No. 964 of 2022 (Sitala Mandal (Chaudhuri) vs State of West Bengal & Ors.).

Facts being the same, the judgment passed in the aforesaid matter on 8th February, 2022 will cover the present writ petition.

The instant writ petition is disposed of by directing the Director of Pension, Provident Fund and Group Insurance and the concerned Treasury Officer to verify the records, and in the event, it is found, that the teacher exercised option and refunded the employer's share of contribution within the time specified in the notification dated 13th June, 2014, then steps shall be taken to issue Revised Pension payment order in favour of the heir(s) of the deceased teacher with effect from the date following the date of retirement on superannuation and to release the pension in accordance with the Revised Pension payment Order. Such steps shall be taken within a period of twelve

weeks from the date of communication of this order. Payment shall positively be released immediately upon issuance of the Revised Pension Payment Order.

For the aforesaid purpose, the DI of Schools concerned shall process the claim for arrears of pension and make/forward necessary recommendation/sanction to the DPPG expeditiously. The DPPG in turn shall act based on such recommendation/sanction.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)