

OD-6

WPO/136/2020

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

HARIPRIYA GIRI.

-Versus-

STATE OF WEST BENGAL AND ORS.

BEFORE :
THE HON'BLE JUSTICE RAI CHATTOPADHYAY
Date : 20th June, 2024

Appearance:
Mr. Syed Shamsul Arefin, Adv.
...for the petitioner.

The Court : In spite of service of notice vide letter of the learned Advocate dated June 14, 2024 no one is appearing for the respondents in this case. Hence the matter is being taken up for hearing and order is passed, in absence of the respondent authorities.

The petitioner, in this writ petition has prayed for an order directing release of the arrear amount of pension with effect from November 1, 2009 to October 9, 2014 along with statutory interest.

The background of the case in brief, may be narrated, as hereinbelow:

1. After working since January 1, 1984 as an Assistant Teacher, the petitioner was superannuated on and from October 31, 2009, from Baramohanpur Sitangshu Balika Vidyapith. She exercised option to convert the Contributory Provident Fund (CPF), to which she was a member, to General Provident Fund (GPF), pursuant to coming into force the DCRB, 1981 (in the year 1985). Pursuant to the provisions under ROPA, 1990, she retired at the age of 60 years.
2. The contribution of the State as to her Contributory Provident Fund was subsequently refunded by the writ petitioner pursuant to the scheme and thus, the petitioner was allowed to enjoy pension with effect from the date of refund by her of the State's contribution.
3. Similar issues, as are involved in the present case, came up for consideration before the Special Bench of this Court in the case of **Abhijit Baidya vs. State of West Bengal**. The Hon'ble Special Bench by the judgment and order dated 30th September, 2019 has held that the employees would be entitled to get their pensionary benefits, from the date of

superannuation and not from the date of refund of State's contribution.

Mr. Arefin, learned Advocate is appearing for the petitioner. He submits that since the law has been settled in the manner as mentioned above by the Hon'ble Special Bench in the case of **Abhijit Baidya (supra)** that the pension will be payable to the employee from the date of his/her superannuation in the case of conversion of his/her Contributory Provident Fund to General Provident Fund and subsequent to his/her refund of State's contribution, the writ petitioner would be entitled to pension with effect from the date subsequent to her superannuation i.e. from November 1, 2009 and not subsequent to her refund of the State's contribution.

The law is well-settled now by dint of the Special Bench judgment in **Abhijit Baidya's case (supra)** that in case of conversion from the Contributory Provident Fund to the General Provident Fund scheme, for all employee who have refunded the State's contribution to the State account, will be entitled to pension with effect from his/her superannuation. The law so settled, would be squarely applicable in case of the present writ petitioner.

Accordingly, this Court finds that the present writ petition is eligible to be allowed with the directions, as follows:

- i) The petitioner shall be granted pension with effect from her superannuation i.e. with effect from November 1, 2009;
- ii) The respondent no.3 shall immediately release arrear pension from November 1, 2009 to October 9, 2014 to the writ petitioner along with simple interest over the accumulated amount of arrear, at the interest rate of a nationalized bank's saving account;
- iii) Let the above exercise be concluded by the concerned respondent authority, within a period of six weeks from the date of communication of copy of this order;

WPO/136/2020 is allowed accordingly.

Since no affidavit has been called for the allegations contained in the writ petition are deemed to have been denied.

(RAI CHATTOPADHYAY, J.)