

22.01.2025
Item No. 28
Court No.19
SK

In The High Court At Calcutta
Constitutional Writ Jurisdiction
W.P.A. 490 of 2025

Khentibala Mahato
-Vs-
The State of West Bengal & Ors.

Mr. Ratul Ghosal
.....for the petitioner.
Ms. Indumouli Banerjee ...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 Ms. Indumouli Banerjee, learned advocate
on the State roll, to represent the State in the
present matter, let her engagement be regularized;
copy of the writ petition be served upon Ms.
Banerjee.

The husband of the petitioner was an approved
Assistant Teacher of a primary school, the said
teacher had retired from his said service on
superannuation on December 31, 2000 and had died
on April 18, 2021.

The petitioner is claiming that her husband
had 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 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** in **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 employee concerned 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 concerned employee 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.

W.P.A. 490 of 2025 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.)