

W.P.A. 5536 OF 2025

**HIRENDRA NATH DATTA
VS.
THE STATE OF WEST BENGAL & OTHERS**

Ms. Sabita Khutia (Bhuniya), Adv.
Mr. Krishna Pada Santra, Adv.

...for the Petitioner

Mr. Pradyot Kumar Das, Adv.

...for the State

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Petitioner being husband of a retired Assistant Teacher has come up with the present writ petition for payment of arrear pension from the date following the date of superannuation of his wife till the date of refund which was made by his wife. Petitioner's wife was a retired Assistant Teacher who superannuated on 31st December, 2009 and got the benefit under the Contributory Provident Fund Scheme (CPF). Subsequently, wife of the petitioner exercised option to come under the Pension-cum-Gratuity Scheme in terms of Government notification dated 13th June, 2014 which was issued in terms of the judgment of the Special Bench dated 16th July, 2013 passed on *intra-Court* appeal being **A.P.O. No.94 of 2009 (State of West Bengal & Ors. v. Abhijit Baidya & Ors.)**.
3. It has also been submitted on behalf of the petitioner that as per demand of the State respondents, wife of

the petitioner has deposited the amount along with interest and additional interest which she received under CPF Scheme.

4. However, the grievance of the petitioner is after taking steps in terms of the said notification dated 13th June, 2014 by issuing pension payment order dated 23rd February, 2015 pensionary benefit was sanctioned in favour of the teacher not from the date following the date of her retirement but from the date of refund which the teacher made after exercising option in terms of the said notification dated 13th June, 2014. Since the teacher died on 12th August, 2024, petitioner claims issuance of revised pension payment order thereby sanctioning pensionary benefits from the date following the date of teacher's superannuation based on the judgment of the Special Bench dated 30th September, 2019 passed on *intra-Court* appeal being *A.P.O. No.121 of 2007*.
5. Learned advocate has also submitted on behalf of the State respondents that based on the judgment dated 30th September, 2019 of the Special Bench the benefit of pension is accorded to other similarly circumstanced retired teachers and staff from the date following the date of their superannuation provided exercise of option has been made within

time in terms of said notification dated 13th June, 2014 and if the refund is made by the concerned staff as per the calculation of the State respondents.

6. This Court has heard the learned advocates representing the parties and has perused the relevant materials available on record.
7. It is nobody's case that the teacher did not exercise option within time in terms of the said notification dated 13th June, 2014 and the teacher on duly exercising option in terms of notification dated 13th June, 2014 switched over from CPF to Pension-cum-Gratuity Scheme. On placing reliance on paragraph 55 of the judgment of the Special Bench dated 30th September, 2019, this Court does not find any impediment in extending the benefit of pension to the petitioner from the date following the date of teacher's retirement provided exercise of option is made within time and refund has been made as per the calculation of the State respondents.
8. Accordingly, this Court directs the State respondents to issue revised pension payment order in favour of the petitioner within twelve (12) weeks from the date of communication of this order thereby extending the benefit of pension from the date following the date of teacher's superannuation.

9. With the above direction, the writ petition stands disposed of.
10. However, there shall be no order as to costs.
11. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)