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(DL)

16.04.2025
Ct. No. 18
(ARPAN)

W.P.A. 7313 OF 2025

**Madhabi Ganguly
Vs.
The State of West Bengal & Ors.**

Mr. Samrat Chowdhury, Adv.
Mr. Tanmoy Khan, Adv.

...for the Petitioner

Mr. Suman Dey, Adv.

...for the State

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

In spite of service of notice, State respondents
are not represented.

Mr. Suman Dey, learned advocate is present
in Court who usually represents State respondents.
Office of the learned Government Pleader is requested
to regularize engagement of Mr. Suman Dey. Mr.
Suman Dey is permitted to enter appearance on behalf
of the State respondents.

Learned advocate for the petitioner is directed
to serve a copy of the writ petition upon Mr. Dey in
course of this day.

The writ petitioner is a widow of a retired
Assistant Teacher, who superannuated on 31st
October, 2010 and got the benefit under the
Contributory Provident Fund Scheme (CPF).
Subsequently, husband 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.)**.

Husband of the petitioner died on 4th October, 2020 and accordingly, the claim is laid by the present petitioner for issuance of revised Pension Payment Order.

It has also been submitted on behalf of the petitioner that as per demand of the State respondents, husband of the petitioner has deposited the amount along with interest and additional interest which he received under CPF Scheme.

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 25th March, 2015, pensionary benefit was sanctioned in favour of the employee not from the date following the date of his retirement but from the date of refund which employee made after exercising option in terms of the said notification dated 13th June, 2014. Petitioner claims issuance of revised pension payment order thereby sanctioning pensionary benefits from the date following the date of husband's superannuation based on the judgment of the Special Bench dated 30th

September, 2019 passed on an *intra-court* appeal being A.P.O. No.121 of 2007.

The State respondents are represented by learned advocate who has also submitted 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 staffs 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 employee as per the calculation of the State respondents.

This Court has heard the learned advocates representing the parties and has perused the relevant materials available on record.

It is nobody's case that the employee did not exercise option within time in terms of the said notification dated 13th June, 2014 and the employee 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 her

husband's retirement provided exercise of option is made within time and refund has been made as per the calculation of the State respondents.

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 superannuation of husband of the petitioner.

With the above direction, the writ petition stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)