

06.11.2025
Sl. No.18
Ct. No.7
ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 19347 of 2025

**Sirshendu Mitra
Versus
The State of West Bengal & Ors.**

Ms. Sabita Khutia Bhuinya
Ms. Arpita Saha

...for the Petitioner.

Ms. Kalpita Paul

...for the State.

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. By the present writ petition the petitioner seeks for direction upon the respondent authorities to disburse the arrear of pension from the date of superannuation of his mother to the date of sanction of the pension.
3. The petitioner contends that his mother was a teacher of Moukhali No.1 Primary School, Post Office GIP Colony, District Howrah under Jagacha Circle and she retired on 30th April, 2009. The mother of the petitioner died on 7th January, 2020. The pension has been sanctioned to the mother of the petitioner on 22nd May, 2015. Since arrear pension from the date of superannuation till the date of sanction of pension has not been disbursed, hence, this writ petition.

4. Ms. Arpita Saha, learned Advocate for the petitioner submits that the mother of the petitioner exercised her option to switch over from CPF to GPF and refunded the employer's share of contribution with interest and additional interest on 1st September, 2014. Thereafter, pension has been sanctioned in favour of the mother of the petitioner. The petitioner being the nominee is entitled to the arrear pension from the date of superannuation of his mother till the date of sanction of the pension.
5. Ms. Kalpita Paul, learned Advocate for the State leaves the matter to the discretion of this Court.
6. The question which falls for consideration is whether a retired employee is entitled to receive pension on and from the date of retirement or from the date of refund of the employee's share of contribution.
7. In *Sitala Mandal (Chaudhuri) versus The State of West Bengal & Ors.*(WPA No.964 of 2022), a Co-ordinate Bench of this Court has passed the following order on similar issue:-

"The issue of estoppel also does not come to the aid of the State in any manner whatsoever. It is settled law that there can be no estoppel against law. According to the prevailing Rules, an employee is entitled to receive pension from the day following the date of superannuation. The entitlement to receive pension being settled by the Special Bench in the earlier judgments, the State is estopped from raising the same issue all over again.

To obviate future complications the Special Bench issued the clarification in Abdul Ghani (supra) making it clear with regard to the entitlement of the employee to receive pension from the date following the date of retirement on superannuation in accordance with the provisions of the DCRB Rules."

8. It is found from Pension Payment Order (Annexure P2 at page 25 of the writ petition) that the same has been issued on 22nd May, 2015 with effect from 1st September, 2014 i.e. the date of refund of the employee's share of contribution and not from the date of retirement as has been held in the aforesaid decision in *Sitala Mandal (Chaudhuri) (supra)*.
9. In view of the above, the respondent no.3, the Director of Pension, Provident Fund and Group Insurance and the respondent no.5, the Treasury Officer, Howrah-I are directed to verify the records and in the event, it is found that the petitioner's mother exercised option and refunded the employer's share of contribution within the time specified in the notification being No.79-SE(L)/SL/5S-56/13(Pt-V) dated 13th June, 2014, then appropriate steps shall be taken to issue a Revised Pension Payment Order in favour of the mother of the petitioner with effect from the date of retirement on superannuation of the petitioner's mother and to release the pension, in accordance with Revised Pension Payment Order. Such steps shall be taken within a period of eight weeks from the date of communication of this order. Payment shall positively be released immediately upon issuance of the Revised Pension Payment Order.

10. For the aforesaid purpose the respondent no.4, the District Inspector of Schools (PE), Howrah shall process the claim for arrears of pension and forward a necessary recommendation/sanction to the respondent no.3, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal expeditiously, who in turn shall act on the basis of such recommendation/sanction.
11. Petitioner is directed to communicate this order to the respondent nos.3, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the respondent no.4, the District Inspector of Schools (PE), Howrah and respondent no.5, the Treasury Officer, Howrah-I for necessary action.
12. With the above direction, the writ petition being **WPA 19347 of 2025** stands disposed of.
13. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
14. Interim order, if any, stands vacated.
15. All connected applications, if any, stand disposed of.
16. There shall be no order as to costs.
17. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

18. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)