

**15.07.2025.
19
Ct.No.7.
as**

WPA 21402 of 2024

**Bharati Patra
Vs.
The State of West Bengal & Ors.**

Mr. Sakti Pada Jana,
Mrs. Sudipta Pramanik.
...for the Petitioner.

Ms. Noelle Banerjee.
....for the State.

1. The issue involved in this writ petition is whether the respondent was justified in releasing the pension in favour of the petitioner only from the date of refund of the employer's share of contribution to the Provident Fund account, along with interest and additional interest.
2. The petitioner started his career as an Assistant Teacher at Moynapur High School, Howrah (hereinafter referred to as "the said school") in May 1980. After rendering continuous and unblemished service for a period of 33 years, the petitioner retired from service on 31st May 2006 upon attaining the age of superannuation.
3. Initially, the petitioner opted for the benefit of the Contributory Provident Fund-cum-Gratuity (CPF) Scheme. However, he subsequently exercised the option to avail of the benefits under the ROPA Rules, 1990. Thereafter, a dispute arose as to whether a teacher or non-teaching staff member who had exercised the option under Clause 17(2) of

the ROPA Rules, 1990 was further required to exercise another option to be governed under the Pension-cum-Gratuity Scheme. Ultimately, the issue was settled by the Hon'ble Special Bench of this Court in the case of *District Inspector of Schools (SE), Kolkata vs. Abhijit Baidya*, reported in (2013) 3 CHN 711. The Hon'ble Bench held that once a teacher or non-teaching staff had exercised the option under Clause 17(2) of the ROPA Rules, 1990, no further option was required to be governed under the Pension-cum-Gratuity Scheme.

4. Pursuant to the judgment of the Hon'ble Division Bench, the State issued a circular dated 13th June 2014, inviting willing teachers and non-teaching staff to exercise the option to be governed under the Pension-cum-Gratuity Scheme, subject to the refund of the employer's share of contribution to the Provident Fund along with interest and additional interest. The petitioner exercised this option on 26th June 2014. However, she has not been granted benefits of pension. Faced with this administrative inaction, the petitioner was compelled to prefer a writ petition, being WPA 19156 of 2022.

5. In the course of hearing of the said writ petition, a Coordinate Bench directed the District Inspector of Schools to calculate the amount to be refunded by the petitioner in order to receive the benefit of pension. Accordingly, the competent authority made the necessary calculation. The Bench disposed of the writ petition by an order dated 5.2.2024 directing the concerned respondent to disburse

the pension and other retirement benefits to the petitioner on refund of the amount by the petitioner.

6. The record reveals that the petitioner refunded the said amount along with interest and additional interest on 16th February 2024. However, the concerned respondent released the pension in favour of the petitioner only from the date of such refund.

7. Aggrieved by the action of releasing the pension in her favour only from the date of refund of the amount, the petitioner has preferred the present writ petition.

8. Mr. Jana, learned Advocate appearing for the petitioner, submits that after the judgment in *District Inspector of Schools (SE), Kolkata vs. Abhijit Baidya* (supra) was passed, another dispute arose as to whether the pension should be released from the date of retirement of the concerned teacher or non-teaching staff, or from the date of refund of the amount towards the employer's share of contribution to the Provident Fund account, along with interest and additional interest.

9. He submits that the issue has been set at rest by the Hon'ble Special Bench of this Court in G.A. 464 of 2018, APOT 104 of 2006, APO 121 of 2007, GA No. 627 of 2006, and WP No. 1528 of 2002 (*Md. Abdul Ghani vs. State of West Bengal & Ors.*). The Hon'ble Bench held that pension shall be released from the date of retirement of the concerned teacher or non-teaching staff.

10. Ms. Banerjee, learned Advocate representing the State, submits that the petitioner failed to refund the amount

within the time specified in the circular dated 13th June 2014 and, therefore, cannot claim that the pension should be released in his favour from the date of retirement. The written instructions produced by Ms. Banerjee are taken on record.

11. Heard the learned Advocates appearing for the respective parties and peruse the materials on record.

12. Admittedly, this issue whether the pension should be released from the date of retirement of the concerned teacher or non-teaching staff, or from the date of refund of the amount towards the employer's share of contribution to the Provident Fund account, along with interest and additional interest, was addressed by the Hon'ble Special Bench in G.A. 464 of 2018, APOT 104 of 2006, APO 121 of 2007, GA No. 627 of 2006, and WP No. 1528 of 2002 (*Md. Abdul Ghani vs. State of West Bengal & Ors.*). The Hon'ble Bench concluded that, in such cases, payment shall be made from the date of retirement of the concerned employee. Therefore, the issue involved in this writ petition is no longer res integra. Consequently, it is held that the respondent has misdirected themselves by releasing the pension in favour of the petitioner only from the date of refund of the amount.

13. A Coordinate Bench of this Court in WPA 19156 of 2022, taking note of the delayed refund of the amount, directed the District Inspector of Schools to calculate the amount. Subsequently, the petitioner was directed to refund

the amount, and acting upon that order, the pension payment order was issued.

14. Therefore, the doctrine of estoppel applies in this case, and the State is estopped from raising this issue.

15. Accordingly, the writ petition is allowed. The respondents are directed to issue a revised Pension Payment Order and to release the pension in favour of the petitioner from the date of retirement, along with all arrears of pension. The entire process shall be completed within eight weeks from the date of receipt of a copy of this order.

16. With this observation and order, this writ petition is, thus, disposed of.

17. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)