

10.11.2025
Sl. No.20(DL)
Ct. No.7
srm

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

W.P.A. No. 21662 of 2025

Gauri Paul

Versus

The State of West Bengal & Ors.

Ms. Sabita Khutia (Bhunya)

...for the Petitioner.

Mr. Susanta Pal,
Mr. Santanu Sett

...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 direction upon the respondent authorities to allow the petitioner to deposit the employer's share of Contributory Provident Fund amount with interest and additional interest on behalf of her husband in order to avail the benefit of family pension.
3. The petitioner contends that her husband was joined in the post of Assistant Teacher of Basantapur Santal Primary School, Paschim Medinipur on 24th December, 1973 and after rendering service of more than 17 years he died-in-harness on 8th March, 1991. The petitioner's husband exercised option under ROPA 1990 and the petition was paid only gratuity amount without any pension or family pension. The petitioner seeks permission to deposit the Government's share of

contribution in her husband's provident fund account with interest and additional interest to avail the benefit of pension.

4. Mrs. Sabita Khutia (Bhunya), learned Advocate for the petitioner seeks for granting permission to deposit employer's share of Contributory Provident Fund amount with interest and additional interest to avail the benefit of pension.
5. Opposing such prayer, Mr. Susanta Pal, learned Advocate for the State-respondents submits that there is unexplained delay in approaching the authorities for granting permission and as such the petitioner is not entitled to take benefit by reverting from C.P.F. to G.P.F.
6. The prayer of the petitioner seeking permission to deposit the employer's share of contributory provident fund amount with interest and additional interest has been opposed by the State on the ground of delay. At this stage, it would be apposite to reproduce the observation of the Hon'ble Supreme Court in ***Union of India & Ors. versus Tarsem Singh*** reported in **(2008) 8 SCC 648** as hereunder:

"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order, or administrative decision which related to or

affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment of refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

7. In terms of the Judgement dated 26th July, 2023 passed by the Hon’ble Division Bench of this Court in ***The State of West Bengal versus Muktimoyee Pal (Dey) & Ors. (In Re: MAT 146 of 2019)*** as well as the subsequent decision of Hon’ble Division Bench in ***Pramila Behara versus The State of West Bengal (In Re: FMA 864 of 2022)***, the petitioner need not exercise a fresh option but to get the benefit of pension is obliged to refund the Government’s share of contribution in her husband’s provident fund account. The petitioner is willing to refund the amount to be calculated by the respondent No.4, District Inspector of Schools (Primary Education), Paschim Medinipur.
8. In view of the above, since this is a valuable right which has accrued in favour of the petitioner, the same cannot be denied on the ground of delay.
9. Accordingly, the respondent No.4, District Inspector of Schools (Primary Education), Paschim Medinipur is directed to calculate the Government’s share of provident fund amount with interest and additional interest which is required to be refunded by the

petitioner for availing the benefit of pension and upon deposit of the said amount the said respondent being the pension sanctioning authority shall verify the pension papers of the petitioner and sent the same to the respondent No.3, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal for further steps to be taken in accordance with law for issuance of the Pension Payment Order in favour of the petitioner.

10. The respondent Nos.4 and 3 shall complete the respective exercise as expeditiously as possible and the pension shall be paid to the petitioner on and from the date of superannuation of the petitioner's husband.
11. With the above direction, the writ petition being **WPA 21662 of 2025** stands disposed of.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. There shall be no order as to costs.
16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
17. 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.)