

25.02.2025
Item No.6,DL
Court No.19
AJ.

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

W.P.A. 30464 of 2024

Hiranmoy Sarkar & Ors.

-Vs-

The State of West Bengal & Ors.

Mr. Ratul Ghosal,

Ms. Haritri Roy.

.....for the petitioners.

Mr. Swapan Kumar Pal,

.....for the State.

Affidavit of service filed on behalf of the
petitioner be kept with the record.

The father of the petitioners was a Head
Teacher of a primary school, on attaining the age of
superannuation; he had retired from his service on
April 30, 2012 and died on March 10, 2024. The
mother of the petitioners predeceased the father.

The petitioners are claiming to have exercised
option to switch over to Pension-cum-Gratuity from
CPF-cum-Gratuity and refunded the employer's
share of contribution with interest and additional
interest within the time limited by the notification of
the Government of West Bengal bearing No. 749-
SE(L)/SL/5S-56/13(Pt-V) dated June 13, 2014.

The grievance of the petitioners is that the
Pension Payment Order was issued with effect from
the date of the aforesaid refund, instead from the
date following the date of retirement of the employee
concerned on superannuation.

The petitioners by the instant writ petition are praying for issuance of a writ of mandamus commanding the respondents to release the arrear pension from the date following such date of retirement of the employee concerned.

Learned advocate for the State respondents does not oppose of the prayer of the petitioners.

In view of the judgment of the Special Bench of this Court in the case of ***DISTRICT INSPECTOR OF SCHOOLS(SE), KOLKATA vs. ABHIJIT BAIDYA*** reported in **2013(3) CHN (CAL) 711** and in view of subsequent clarification of some of the paragraphs of the said judgment by the Special Bench in its order dated **September 30, 2019** on **G.A. 464 of 2018**, the issue is no longer *res integra*.

The concerned District Inspector of School (PE) is directed to verify the records expeditiously to ascertain as to whether the employee concerned had exercised the said option and refunded the employer's share of contribution within the time limited by the aforesaid notification dated June 13, 2014.

In the event, it is found that the said option was so exercised, the said authority shall process the claim of the petitioners for arrears of pension and shall forward the necessary recommendation and/or sanction to the Director of Pension, Provident Fund and Group Insurance, who, in turn,

shall take steps to issue Revised Pension Payment Order in favour of the petitioners with effect from the date following the date of retirement of the employee concerned on superannuation and the concerned Treasury Officer, thereafter shall release the arrear pension in accordance with the Revised Pension Payment Order.

Entire exercise in this regard is required to be completed within a period of twelve weeks from the date of communication of this order.

WPA 30464 of 2024 stands disposed of with the above directions without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)