

Item-
3. 23-06-2025

FMA 106 of 2025
CAN 1 of 2025

sg

Ct. 8

Kalpana Bit
Vs.
The State of West Bengal & Ors.

Mr. Sourav Mitra
Ms. Sreyasree Choudhury
...for the appellant
Mr. Dwarikanath Mukherjee
Mr. Manik Lal De
...for the State

1. It appears that the judgment decided on the similar points was not placed before the learned Single Judge at the time of hearing of the writ petition.
2. The issue raised in the writ petition was decided by a coordinate Bench on 11th December, 2023 in which one of us (Soumen Sen, J.) was a member, being ***FMA 864 of 2022 (Pramila Behara vs. The State of West Bengal & Ors.)*** and considered a similar circumstance while allowing the appeal of the widow. The observations made by the coordinate Bench are in paragraphs 12, 13, 14 and 15, which are reproduced hereinbelow:

“12. This is a valuable right as that has accrued in favour of the petitioner of which he cannot be denied. As observed earlier, the husband of the petitioner had already agreed to reduce the age of superannuation and thereby had suffered financially. The widow cannot be made to suffer by reason of the long (sic. Wrong) interpretation of the relevant provisions of the scheme or the judgement of the Special Bench. In fact, as observed earlier, the authorities concerned had

already accepted in principle that the widow will not be required to exercise any fresh option. Had the teacher being alive when the Special Bench delivered the judgement, question of exercising option would become relevant. In the instant case, there was no scope to switch over option of the teacher concerned as he was dead on the date of the judgement. Furthermore, the husband of the petitioner exercised option under ROPA 1998 and 1990. In view thereof, the judgement is set aside.

13. The respondent authorities are directed to calculate the employer's share of Contributory Provident Fund with interest and additional interest which the petitioner is required to refund for availing the benefit of pension cum gratuity scheme and intimate the same to the petitioner within a period of eight weeks from date. The petitioner shall deposit the specified amount of the employer's share of CPF with interest and additional interest to the Government Treasury through the concerned District Inspector of Schools within ten days from the date of receipt of the statement of refund. The concerned District Inspector of Schools shall send the pension papers of the petitioner to the Office of the Director of Pension, Provident Fund and Group Insurance, West Bengal after verifying the same and shall issue pension payment order in favour of the petitioner within two months thereof.

14. In computing the interest, the appropriate authority shall take into consideration the clause 3(iv) of the Notification dated 13 June, 2014 which has prescribed the rate of interest to be paid towards refund of the employer's share of contributory provident fund upto the date of exercise of option.

15. The family pension shall be payable the respondents from the date of actual superannuation and/or the death of the concerned teacher as the case may be. Let arrears of pension be paid to the writ

petitioners respondents, within a period of three months of issuance of the Pension Payment Order.”

3. The said decision has also been recently followed and applied by this Bench in *MAT 1729 of 2017 (Smt. Aparna Chakdar vs. The State of West Bengal & Ors.)* decided on 3rd April, 2025.
4. Under such consideration, the impugned order is set aside. The appeal is allowed in terms of paragraphs 12 to 15 of the judgment in *Pramila Behara* (supra).
5. The timeframe mentioned in *Pramila Behara* (supra) should also be made applicable in this case.
6. In view thereof, the appeal and the connected application are accordingly, disposed of.
7. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Smita Das De, J.)