

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8297 of 2024

Jyotsna Bhunia
v.
The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya)
... For the petitioner

Ms. Sangeeta Roy
Ms. Somashree Dey
... For the State

1. Affidavit of service filed in Court today is taken on record.

2. The issue to be decided in the present writ petition is whether an employee will be entitled to receive pension on and from the date following retirement or from the date of refund of the employer's share of contribution.

3. The husband of the petitioner retired from the service on attaining the age of superannuation on 31st January, 2006 and expired on 21st October, 2006.

4. The State Government published the Government Order No. 749-SE(L)/55-56/13(Pt.V) on 13th June, 2014 pursuant to which the employee had the option to join GPF scheme upon refund of the employer's share of provident fund.

5. As the husband of the petitioner expired prior to the publication of the State Government Order, accordingly, he could not avail the said benefit. The petitioner, being the widow, approached the Court seeking liberty to get the benefit under the GPF scheme. She filed writ petition, being WPA 11888 of 2022 which stood disposed of by the Court on 26th July, 2022.

6. In compliance of the order passed in the aforesaid matter, the Director of Pension, Provident Fund and Group Insurance directed the petitioner to refund the employer's share of contributory fund along with interest which the petitioner duly refunded.

7. Pension Payment Order was issued in favour of the employee with effect from the date of refund of the employer's share of contribution.

8. The petitioner claims that pension ought to have been released on and from the next date of retirement and not from the date of refund of the employer's share of contribution.

9. A similar issue has been decided by this Court in WPA 964 of 2022 in the matter of Sitala Mandal (Chaudhuri) Vs. State of West Bengal & Ors.

10. The judgment passed in the aforesaid matter on 8th February, 2022 will cover the present writ petition.

11. The instant writ petition is disposed of by directing the Director of Pension, Provident Fund and Group Insurance, the District Inspector of Schools (Secondary Education), Paschim Medinipur and the concerned Treasury Officer to verify the records, and in the event, it is found that the employer's share of contribution has been refunded as per the calculation made by the District Inspect of Schools, then steps shall be taken to issue Revised Pension Payment Order with effect from the date following the date of death and to release the pension in accordance with the Revised Pension Payment Order.

12. Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order. All payments shall positively be released immediately upon issuance of the Revised Pension Payment Order.

13. The writ petition stands disposed of.

14. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

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

(Amrita Sinha, J.)