

19.01.2026
Item No. 13
Ct. No. 14
AN

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

**WPA 27766 of 2025
Arabinda Dalui & ors.
vs.
State of West Bengal & ors.**

Mrs. Sabita Khutia (Bhunya)

... for the petitioner

Sk. Samim Ullah

... 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 for direction upon the respondent authorities for disbursement of the arrear of pension from the date following the date of superannuation of their mother till the date of sanction of the pension.
3. The petitioners contend that their mother was a Teacher in Sarpai Primary School, Vill. Sarpai, P.O. Bagua, Dist. Howrah under Sarpai Circle. The mother of the petitioners retired from service on superannuation on 31st March, 2012. The Pension Payment Order was issued in favour of the petitioners' mother on 6th April, 2015 with effect from 5th September, 2014 i.e. the date of refund of the employers' share in the Contributory Provident Fund with interest and additional interest. The deceased

employee is entitled to pension from the date following the date of her retirement, however, pension has been given effect to from the date of refund of the employers' share in the Contributory Provident Fund. Being aggrieved by such action of the respondent authorities, the petitioners have preferred the present writ petition.

4. Mrs. Sabita Khutia Bhunya, learned advocate appearing for the petitioner submits that the mother of the petitioners was granted pension upon the deposit of the employers' share of contributory provident fund with interest and additional interest. However, the pension has been given effect to from the date of refund of the aforesaid amount and not from the date following the date of retirement of the deceased employee. She seeks appropriate direction for disbursement of arrear pension from the date following the date of retirement of the deceased employee.
5. None appears on behalf of the State despite service.
6. Sk. Samim Ullah, learned advocate who usually represents the State is requested to appear in this matter on behalf of the State. Let his appointment be regularised by the concerned authority.
7. Petitioner is directed to handover a copy of the writ petition alongwith all annexures to the learned advocate representing the State.

8. Sk. Samim Ullah, learned advocate representing the State leaves the matter to the discretion of the Court.
9. The question which falls for consideration is whether a retired employee is entitled to receive pension on and from the date following the date of his/her retirement or from the date of refund of the employee's share of Contributory Provident Fund.
10. In ***Sitala Mandal (Chaudhuri) versus The State of West Bengal & Ors. (WPA No.964 of 2022)***, a Coordinate Bench of this Court has passed the following order on similar issue:-

“The issue of estoppel also does not come to the aid of the State in any manner whatsoever. It is settled law that there can be no estoppel against law. According to the prevailing Rules, an employee is entitled to receive pension from the day following the date of superannuation. The entitlement to receive pension being settled by the Special Bench in the earlier judgments, the State is estopped from raising the same issue all over again.

To obviate future complications the Special Bench issued the clarification in Abdul Ghani (supra) making it clear with regard to the entitlement of the employee to receive pension from the date following the date of retirement on superannuation in accordance with the provisions of the DCRB Rules.”

11. It is found from Pension Payment Order (Annexure P2 at page 23 of the writ petition) that the same has been issued on 6th April, 2015 with effect from 5th September, 2014 i.e. the date of refund of the employer's share of Contributory Provident Fund and not from the date following the date of retirement of the employee as has been held in the aforesaid decision in *Sitala Mandal (Chaudhuri) (supra)*.

12. In view of the above, the respondent no.3, the Director of Pension, Provident Fund and Group Insurance and the respondent no.5, the Treasury Officer, Howrah-I are directed to verify the records and in the event, it is found that the petitioners' mother exercised option and refunded the employer's share of contribution within the time specified in the notification being No.749- SE(L)/SL/5S-56/13(Pt-V) dated 13th June, 2014, then appropriate steps shall be taken to issue a Revised Pension Payment Order in favour of the mother of the petitioner with effect from the date of retirement on superannuation of the petitioners' mother and to release the pension, in accordance with Revised Pension Payment Order. Such steps shall be taken within a period of eight weeks from the date of communication of this order. Payment shall positively be released immediately upon issuance of the Revised Pension Payment Order.
13. For the aforesaid purpose the respondent no. 4, the District Inspector of Schools (PE), Howrah shall process the claim for arrears of pension and forward a necessary recommendation/sanction to the respondent no. 3, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal expeditiously, who in turn shall act on the basis of such recommendation/sanction.
14. Petitioner is directed to communicate this order to the respondent nos. 3, the Director of Pension, Provident

Fund and Group Insurance, Government of West Bengal, the respondent no.4, the District Inspector of Schools (PE), Howrah and respondent no. 5, the Treasury Officer, Uluberia, P.O. & Plaintiff .S. Uluberia, Dist. Howrah for necessary action.

15. With the above directions, the writ petition being **WPA 27766 of 2025** stands disposed of.
16. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
17. Consequently, connected applications, if any, also stand disposed of.
18. Interim orders, if any, stand vacated.
19. There will be no order as to costs.
20. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)