

17.02.2026
Sl. No.46(DL)
Ct. No.14
srm

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

W.P.A. No. 28770 of 2025

Mahasinur Reja

Versus

The State of West Bengal & Ors.

Ms. Sanchayita De

...for the Petitioner.

Mr. Suddhadev Adak,
Ms. Kumkum Das

...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 arrear of pension from the date following the date of retirement of the wife of the petitioner till the date of sanction of the pension, i.e. 12th September, 2014.
3. The petitioner is the husband of the deceased employee. The concerned employee was an Assistant Teacher of 41, Harekrishnapur Primary School under Jalangi North Circle, District-Murshidabad. The petitioner's wife retired from service on superannuation on 30th April, 2011. The petitioner's wife exercised option for switching over from Contributory Provident Fund scheme to General Provident Fund scheme and deposited employer's share of contribution under CPF scheme on 12th September, 2014. Upon deposit of the aforesaid amount, Pension Payment Order was issued in favour

of the petitioner's wife on 22nd May, 2015 giving effect of pension from the date of deposit of the aforesaid amount. The pension ought to have been given effect from the date following the date of retirement of the petitioner's wife. The petitioner's wife died on 24th April, 2019. The petitioner claims for arrear of pension from the date following the date of retirement of the concerned employee till the date of sanction of the pension. Hence, this writ petition.

4. Ms. Sanchayita De, learned Advocate for the petitioner submits that the pension of the deceased employee ought to have been given effect from date following the date of superannuation of the concerned employee. However, the pension has been given effect from the date of deposit of the employer's share of Contributory Provident Fund. She seeks appropriate orders for disbursement of the arrear pension in favour of the petitioner.
5. Mr. Suddhadev Adak, learned Advocate for the State leaves the matter to the discretion of this Court.
6. 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 retirement or from the date of deposit of the employee's share in Contributory Provident Fund.
7. In *Sitala Mandal (Chaudhuri) versus The State of West Bengal & Ors.* (WPA No.964 of 2022), a Co-

ordinate 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."

8. It is found from Pension Payment Order (Annexure P/2 at page 14 of the writ petition) that the same has been issued on 22nd May, 2015 giving effect of pension from 12th September, 2014 i.e. the date of deposit of the employer's share in Contributory Provident Fund and not from the date following the date of retirement of the concerned employee.
9. In view of the above and in line with the aforesaid decision, the respondent No.3, the Director of Pension, Provident Fund and Group Insurance and the respondent No.5, the Treasury Officer, Berhampore, Murshidabad are directed to verify the records and in the event, it is found that the petitioner's wife 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 wife of the petitioner with effect from the date

following the date of retirement on superannuation of the petitioner's wife 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.

10. For the aforesaid purpose the respondent No.4, the District Inspector of Schools (PE), Murshidabad shall process the claim for arrears of pension and forward the same 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.
11. Petitioner is directed to communicate this order to the respondent No.3, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the respondent No.4, the District Inspector of Schools (PE), Murshidabad and respondent No.5, the Treasury Officer, Berhampore, Murshidabad, for necessary action.
12. With the above direction, the writ petition being **WPA 28770 of 2025** stands disposed of.
13. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
14. Interim order, if any, stands vacated.

15. All connected applications, if any, stand disposed of.
16. There shall be no order as to costs.
17. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
18. 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.)