
(2013) 07 CAL CK 0056
In the Calcutta High Court
Case No : Writ Petition 29720 (W) of 2008

Passolam Bhutia (Lepcha)

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:

Citation : (2013) 07 CAL CK 0056

Hon'ble Judges : Joymalya Bagchi, J

Bench : Single Bench

Advocate : Asok Kumar Janah, Mr. Krishna Deo Das, Ms. Pampa Dey and Mr. Goutam Dinda, for the Appellant;

Final Decision : Allowed

Judgement

Joymalya Bagchi, J.—The petitioner's husband was an employee of a recognized non-government aided educational institution. He had died-in-harness. The petitioner claims to be entitled to family pension under Pension-cum-Gratuity scheme on the basis of option exercised by husband in terms of para 5 of ROPA 1990 by operation of the pre-amended provision of para 17(2) of the said ROPA 1990. It is submitted that subsequent 2007 amendment of para 17 of ROPA 1990 cannot take away a right, which has already accrued in favour of an employee. This issue is no longer res integra having been decided by a Special bench of this Court by judgment and order dated 16.07.2013 in APO 94 of 2009, GA 665 of 2013 with WP 694 of 2008 with all other 201 connected matters (District Inspector of Schools (SE), Kolkata & Anr. Vs. Abhijit Baidya & Ors.)

2. In view of the ratio as laid down in the said decision, if the petitioner exercises option in terms of para 76 of the said judgment in favour of the Pension-cum-Gratuity scheme pursuant to the public notice issued by the State Government, as provided in the said paragraph, seeking such option, and, in the event she has already received upon superannuation benefits under the CPF scheme, the State Government shall within a month from her exercising such option, specify to the petitioner the amount of employees' share of contribution with interest and

additional interest and call upon the latter to refund the same within a specified time and upon such refund being so made, the petitioner shall be entitled to the benefit of family pension under Pension-cum-Gratuity scheme from the date of such refund. The writ petition is accordingly allowed.