

**(2013) 07 CAL CK 0017****Calcutta High Court****Case No:** Writ Petition No. 4411 (W) of 2009

Uday Kumar Atarthy

APPELLANT

Vs

State of West Bengal

RESPONDENT

**Date of Decision:** July 22, 2013**Citation:** (2013) 4 CHN 507**Hon'ble Judges:** Joymalya Bagchi, J**Bench:** Single Bench**Advocate:** Asok Kumar Janah, Krishna Deo Das, Pampa Dey and Goutam Dinda, for the Appellant;**Final Decision:** Disposed Off**Judgement**

Joymalya Bagchi, J.

The petitioner was an employee of a recognized non-government aided educational institution. The petitioner has already superannuated. The petitioner claims to be entitled to general provident fund and pension on the basis of option exercised in terms of para 5 of ROPA 1990 by operation of the pro-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 judgement 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. v. 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 he has already received upon superannuation benefits under the CPF scheme, the State Government shall within a month from his 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 Pension-cum-Gratuity scheme from the date of such refund. The writ petition is accordingly allowed.