

(2007) 09 CAL CK 0070

Calcutta High Court

Case No: F.M.A. No. 508 of 2005

State of West Bengal
and Others

APPELLANT

Vs

Gobinda Sinha
Mahapatra and Another

RESPONDENT

Date of Decision: Sept. 6, 2007

Citation: (2008) 4 CHN 915

Hon'ble Judges: Tapas Kumar Giri, J; Ashim Kumar Banerjee, J

Bench: Division Bench

Advocate: Sk. Oli Mohammad and Wasif Ali Mandal, for the Appellant; S. Arefin, for the Respondent

Judgement

1. The respondent/writ petitioner No. 1 moved the learned Single Judge with a prayer for change of option from Contributory Provident Fund to General Provident Fund Scheme. The prayer was allowed by the learned Single Judge by judgment and order dated March 12, 2003 appearing at pages 48-50 of the paper book.

2. On perusal of the judgment it appears that no reason was assigned while allowing the writ petition. There was no provision for change of option being exercised belatedly. State from time to time granted liberty to the teachers to change their option within the stipulated period. The respondent/writ petitioner No. 1 did not avail such opportunity. Hence such prayer could not have been acceded to by His Lordship.

3. The appeal thus succeeds.

4. The order of the learned Single Judge is quashed and set aside.

5. We are told that the respondent/writ petitioner No. 1 has not yet been paid his retiral benefit although he retired in July, 2000.

6. Mr. Oli Mohammad, learned Advocate, appearing for the State, however, contends that retiral benefit could not be paid due to the pendency of the litigation.
7. Pursuant to the direction of this Court the District Inspector of Schools, Bankura, is present in Court. He assures this Court that attempt would be made to pay the provisional retiral benefit of the respondent/writ petitioner No. 1 to the extent of 90% within a period of two weeks from date.
8. The respondent/writ petitioner No. 1 is directed to render necessary assistance to have his retiral benefit released by the State.
9. The School Authority is also directed to render necessary assistance by providing necessary documents i.e. service book of the respondent/writ petitioner No. 1 to the concerned District Inspector of Schools at once.
10. FMA No. 508/2005 is disposed of without any order as to costs.
11. Urgent xerox certified copy of this order, if applied for, be given to the parties on usual undertakings.