

S/L 9
17.5.2022
Court No.24
SD

WPA 14433 of 2017

Abul Barkat
Vs.
State of West Bengal & Ors.

Mr. Subhendu Roychoudhury

...for the Petitioner.

Mr. Pinaki Dhole

Mr. Rajat Dutta

...for the State.

Md. Sarwar Jahan

Sk. Nayeemul Haque

...for the Respondent No.3.

The petitioner is a retired primary school teacher. He retired from service on attaining his normal age of superannuation on July 31, 2015. Pension payment order was issued in his favour on February 22, 2016.

According to the petitioner, he got a copy of his service book after his retirement wherefrom it revealed that there were certain anomalies with regard to fixation of his pay. The petitioner relies upon the noting in his service book dated July 1, 2005 which mentions the pay of the petitioner as Rs.5950/-. The petitioner submits that thereafter his existing basic pay was erroneously reduced to Rs.5850/-. According to the petitioner, his basic pay ought to have been Rs.5950/- and not Rs.5850/-. The petitioner submits that the last basic pay which was recorded in his service book was Rs.18,850/- but the same was erroneously reduced to Rs.18,690/-. In view of the wrong calculation, the petitioner

was directed to refund an amount of Rs.19,256/- on account of alleged excess payment made to him.

The petitioner highlighted his grievance praying for re-fixation of his family pension and other retiral benefits on the basis of the actual last pay drawn by filing a representation before the Director of Pension, Provident Fund and Group Insurance as well as the District Inspector of Schools (P.E.), Murshidabad. As the representation filed by the petitioner was not taken up for consideration, the petitioner approached this Court by filing a writ petition being W.P. 23395 (W) of 2016 which stood disposed of by an order dated October 4, 2016 by directing the Director of Pension, Provident Fund and Group Insurance to dispose of the representation filed by the petitioner for re-fixation of family pension. In compliance of the direction passed by the Court, the Director, Pension, Provident Fund and Group Insurance have passed a reasoned order in February 2017. The same is under challenge in the present writ petition.

The Director was of the opinion that as pension has been fixed on the basis of the last pay drawn by the petitioner, that is, Rs.18,690/- only, accordingly, the Director is not in a position to re-calculate the retiral dues on the basis of the erroneously prepared last drawn certificate.

The fact remains that the Director, Pension, Provident Fund and Group Insurance is not the competent authority to re-fix the salary of a teacher. The Director is only required to issue the pension payment order on the basis of the last pay

drawn by an employee. The matter of re-calculating or re-fixing the pay of a teacher has to be done by the District Inspector of Schools within whose jurisdiction the employee served.

Accordingly, the present writ petition is disposed of by directing the District Inspector of Schools (P.E.), Murshidabad to consider the prayer of the petitioner for re-calculating his pay on the basis of entries made in his service book.

The petitioner is directed to prepare a comprehensive representation along with all documents in support of his claim and submit the same before the District Inspector of Schools for consideration.

In the event, such a representation is made by the petitioner, the same shall be considered by the District Inspector of Schools upon verification of the records maintained in the office of the District Inspector of Schools and the documents that are available in the office of the Murshidabad District Primary School Council and in the office of the Sub-Inspector of Schools, Bharatpur Circle, Murshidabad.

A decision shall be taken in response to the representation filed by the petitioner strictly in accordance with law after giving an opportunity of hearing to the petitioner and all other necessary parties at the earliest but positively within a period of twelve (12) weeks from the date of filing the representation. The District Inspector of Schools

shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

It is made clear that this Court has not entered into the merits of the claims of the petitioner and all points are left open to be decided by the said respondents at the time of consideration of the representation of the petitioner.

Writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Amrita Sinha, J.)