

13 08.09.2020
NB. Ct. No. 13

W. P. No. 1223(W) of 2020

With
CAN 3197 of 2020
CAN 3389 of 2020

(via Video Conference)

Shyam Sundar Agarwal
Vs.
The State of West Bengal & Ors.

Mr. Sakti Pada Jana
...for the petitioner.

Ms. Kakali Samajpati.
...for the respondents.

This is an application, inter alia, praying for pensionary benefits for the petitioner's service as Assistant Teacher of Jagatdal Chashma-I-Rahmat High School (H.S.), North 24-Parganas.

Learned Counsel appearing on behalf of the petitioner submits that the petitioner had earlier moved a writ application being WP No. 4181(W) of 2018 challenging the withholding pension and gratuity benefits of the petitioner in connection with his service. By an order dated 17.07.2018 passed by a coordinate Bench of this Court, it was directed as under:-

"in the view of the above factual matrix, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, to consider the representation of the writ petitioner dated February 6, 2018 and thereafter to take a final

decision on the pension to be paid to the writ petitioner.

The above order should be a reasoned order passed after granting opportunity of hearing to the writ petitioner within a period of six weeks from the date of communication of this order. Reasoned order is to be communicated to the petitioner within a period of two weeks from the date of passing of such order.

It is made clear that in the event the reasoned order is passed in favour of the writ petitioner, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, shall immediately issue the Pension Payment Order to the writ petitioner within a period of three weeks from the date of passing of the reasoned order.

Since no affidavit has been exchanged, the allegations made in the writ petition are deemed not to have been admitted.”

Consequently, an order was passed by the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, directing the concerned District Inspector of Schools to pass an order allowing higher scale of payment to the petitioner in terms of GO No.57-SE(S) dated 27.01.1995. However, subsequently, the Assistant Director, Pension, Provident Fund and Group Insurance, Government of West Bengal, by an order dated 27.06.2019 observed that the petitioner had earlier exercised his option for C.P.F.-cum-Gratuity Scheme and as such would not be getting the benefits of pension. It was directed that the case be sent to the Education Department for necessary concurrence. Learned Counsel for the petitioner submits that there might

have been some mistakes initially in giving an option regarding the scheme, which the petitioner was opting for. However, in effect he had continued under the GPF Scheme and as such, he would be entitled to all pensionary benefits.

Learned Counsel appearing on behalf of the respondent authorities submits that there was a serious error on the part of the petitioner in opting for a particular scheme. However, the matter is being looked into by the Education Department.

At this stage, learned Counsel appearing for the petitioner submits that it will suffice if a direction is passed upon the respondent no.2 to look into the matter and pass a reasoned order as expeditiously as possible.

Considering the facts and circumstances of the case and the submissions made at the bar, I hereby direct the respondent no.2 being the Secretary, School Education Department, Government of West Bengal to decide the issue in respect of the pension and retiral benefits of the petitioner as expeditiously as possible and pass a reasoned order in this regard.

In the event a favourable order is passed by the respondent no.2, then in such event, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal shall immediately issue pension Payment Order to the petitioner within a period of four weeks from the date of passing of such reasoned order.

Since no affidavit has been exchanged, the allegations made in the writ petition are deemed not to have been admitted.

With these observations, the writ petition and all connected applications being CAN 3197 of 2020 and CAN 3389 of 2020 are disposed of.

There shall however, be no order as to costs.

All parties are to act on the website copy of this order.

(Jay Sengupta, J.)

