

20.11.2020
adeb
S/L. 28
Ct.23

W.P.A. No. 7895 of 2020

(Via Video Conference)

**Anil Kumar Biswas
Vs.
State of West Bengal & Ors.**

Mr. Shuvro Prokash Lahiri

...for the petitioner

Affidavit-of-service filed in Court today be kept with the record.

The petitioner was an Assistant Teacher of a Primary School. He retired in the year 2009.

Prior to his retirement he was suspended for having been allegedly involved in criminal activities not connected with his service. His suspension was subsequently revoked and he was allowed to rejoin his service. However, there was a confusion regarding the period of time during which he was detained in police custody.

On 19th May, 2016 a memo was issued by the office of the concerned District Inspector of Schools to the chairman of the Murshidabad DPSC which read as follows:-

“Sir,

In enclosing, herewith, the letter under reference, the undersigned requests your kind attention to the fact that while withdrawing the order suspension imposed upon the petitioner in the “light of the observation of the Hon’ble Court’ in the matter of the W.P. No. 10569 (W) of 2009, it was mentioned “...*His suspension period be treated as qualified service excluding the detention period in Jail custody which*

will be decided after the disposal of the criminal case..” Now since the criminal case against the petitioner has finally been disposed of by the Hon’ble Supreme Court of India, you are requested to decide over the period of detention of the petitioner and inform this office so that the undersigned, being the Pension Sanctioning Authority, may take necessary steps for preparing the pension case.”

The criminal case against the petitioner ultimately reached the Supreme Court and attained finality. The petitioner was not receiving pension because the period of his detention in police custody was yet to be ascertained.

The petitioner approached this Court by filing WP 7927 (W) of 2016. Such writ petition was disposed of by an order dated 30th July, 2019 directing the Chairman, Murshidabad District Primary School Council to take follow up action pursuant to the aforesaid memo dated 19th May, 2016. The said authority has now informed the concerned District Inspector of Schools that the petitioner was only two days in police custody in connection with the criminal case.

In view of the aforesaid there could now be no problem in releasing the petitioner’s pension since the period of detention of the petitioner by the police has been ascertained.

There is no appearance on behalf of the State in spite of service. However, the order I propose to pass, in my opinion , will not affect the State adversely.

The District Inspector of Schools (PE), Murshidabad being the respondent no. 5 is directed to prepare and

forward the pension papers of the petitioner to the Directorate of Pension, Provident Fund and Group Insurance being the respondent no. 4 within a period of four weeks from the date of receipt of a copy of this order by him. Upon receipt of such papers, the respondent no. 4 shall process the same and ensure that the Pension Payment Order is issued in favour of the petitioner within a further period of 4 (four) weeks. The petitioner should definitely receive his pensionary benefits including arrear pension, if any, within 12 (twelve) weeks.

The petitioner has claimed interest since there has been inordinate delay in disbursement of his pensionary benefits. I am not going into that question on this application. The point of interest shall not be treated as having been considered or decided by me. It will be open to the petitioner to approach the appropriate forum with his prayer for interest at the appropriate stage.

The writ petition being W.P.A. No. 7895 of 2020 is, accordingly, disposed of.

There will be no order as to costs.

Since no affidavits have been invited, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

The parties shall act in terms of a copy of this order downloaded from the official website of this Court.

(Arijit Banerjee, J.)