

10.12.2020
Item No.05
Daily List
Court No.25
Krishnendu

W.P.A. No. 8192 of 2020
(VIA VIDEO CONFERENCE)

In re: Nilima Maiti (Mandal)
- Versus-
The State of West Bengal & Ors

Mr. K. D. Podder
Mr. Subir Sabud

For the Petitioner

Mr. Supriyo Chattopadhyay
Mr. Sabyasachi Mondal

For the State

The present writ petition has been preferred primarily praying for the following relief:

- (a) To issue a writ of/or in the nature of mandamus by commanding the Respondent/Authorities and/or each one of them and their men, agents, subordinate specially the Respondent Nos. 2, 3 and 5 to forthwith decide, settle and issue the sum of Rs.3,91,079/- (Rupees Three lacs Ninety one Thousand and Seventy Nine) only as arrear claim for the period 23.06.1982 to 28.02.2019 for the reason of rectification/refixation of scale of pay ;

Mr. Podder, learned advocate appearing for the petitioner submits that the petitioner was an assistant teacher of Barbajitpur Jatindra

High School (in short, the said School). By a memo dated 12th March, 2019, the annual increment was re-fixed. On the basis of such re-fixation, the petitioner became entitled to an arrear claim pertaining to the period from 23rd June, 1982 to 28th February, 2019. Accordingly, the school authorities calculated the arrear claim of the petitioner to be of Rs.3,91,079/-. Such calculation sheet pertaining to the arrear claim was submitted to the respondent no. 3 by a letter dated 26th November, 2019 issued by the Secretary of the said School. Thereafter, no steps were taken by the respondent no. 3 towards disbursement of the arrear dues. Such grievance was ventilated by the petitioner, through her advocate, by a letter dated 18th September, 2020 issued to the respondent nos. 2,3,5,6 and 7. In the midst thereof, the petitioner retired from the service on 30th November, 2019 and has been disbursed the pensionary benefits.

No explanation is forthcoming as to why no steps have been taken towards disbursement of the arrear claim of the petitioner though the re-fixation, on the basis of which the arrear claim arose, was approved by the D.I. vide memo dated 12th March, 2019.

Mr. Chattopadhyay, learned advocate appears on behalf of the State respondents.

Upon hearing the learned advocates appearing for the respective parties and upon considering the materials on record, I am of the opinion that no useful purpose will be served by keeping the writ petition pending and the issue needs to be relegated to the respondent no. 2 as the matter pertains to arrear claim.

Accordingly, the respondent no. 2 is directed to consider the representation submitted by the petitioner, through her learned advocate, on 18th September, 2020, as annexed at page 82 of the writ petition, upon granting an opportunity of hearing to the petitioner and the school authorities and to take a decision, in accordance with law and in the light of the observations made in this order and to communicate such decision to the petitioner, within a period of eight weeks from the date of communication of this order along with a copy of the writ petition.

It is made clear that the school authorities shall appear before the respondent no. 2 on the date scheduled for hearing and shall produce all relevant records so that the dispute can be resolved.

Needless to observe in the event the petitioner's claim deserves acceptance, all necessary follow up steps shall be taken by the respondents towards disbursement of the benefits, forthwith.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.

(Tapabrata Chakraborty, J.)