

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:

The Hon'ble Mr. Justice Ravi Krishan Kapur

WPA 3873 of 2008

Smt. Alpana Majumder

Vs.

State of West Bengal and Ors.

For the petitioners : Mr. Krishanu Banik

For the respondent no.7 : Mr. Lakshmi Kanta Pal
Mr. Bandhu Brata Bhula

For the State : Mr. Joytosh Majumdar, Ld. G.P.,
Mr. Supriyo Chattopadhyay
Ms. Iti Dutta

Heard on : 02.03.2021

Judgment on : 06.04.2021

Ravi Krishan Kapur, J.:

1. The petitioner assails a communication issued by the Assistant Secretary, School Education Department (the respondent no.2) dated 27.04.2007/24.05.2007 rejecting the prayer of the petitioner for counting her past service in an unaided institution in calculating her pensionable benefits.
2. The brief facts of the case are that the petitioner after completion of her Bachelor's Degree in Education from the Burdwan University in 1984 joined as an Assistant Teacher in a school recognized by the

West Bengal Board of Secondary Education namely the Burnpur Girl's High School (GS), P.O. Burnpur, District Burdwan. The petitioner joined the said school on 2 May 1987 and continued with her service till 5 December 2001. At the time of her release from service the petitioner's monthly salary was Rs 8298.50/-.

3. Pursuant to an advertisement inviting applications for selection of candidates for the post of Headmaster/ Headmistress/ Superintendent of Senior Madrasahs in recognised non government aided schools, the petitioner duly applied for the same. Thereafter, following an interview the petitioner's name was recommended by the Secretary/ Assistant Secretary, West Bengal Regional Schools Service Commission Eastern Region, Burdwan to The Secretary Managing Committee, Durgapur Pallymangal Balika Vidyamandir, Samabay Pally, Bally, District Howrah for the post of Head Mistress in the said school by Memo No.28(4) APPH/HM/SSC(ER).
4. Subsequently, the petitioner was issued a letter of appointment on 17 October 2001 and the petitioner joined service as a Headmistress on 6 December 2001. The said appointment was subsequently approved by the District Inspector of Schools Education (SE) Howrah by Memo No. 361/1(3)/SSC dated 19 March, 2002.
5. Thereafter, the petitioner made an application on 25 November 2002 to the Director of Schools Education (SE) Government of West Bengal, Bikash Bhawan, with a request to pass necessary orders for counting of her past service alongwith the recovery of her provident fund

deductions and to have her previous provident fund balance transferred to her subsequent service account.

6. After having exchanged diverse correspondence between the petitioner and respondent authority, the Assistant Secretary School Education Department (Secondary Branch) Government of West Bengal by a Memo No. 464-SE (S)/2p-3/0-6 dated 27.4.2007/24.05.2007 held that the past service of the petitioner could not be counted in terms of G.O No 180-Edu(8)/IM-33/88 dated 20 May 1988 ("the impugned communication").
7. It is contented on behalf of the petitioner that since the petitioner had rendered services from 02 May 1987 to 5 December 2001 at the Burnpur Girl's High School, which is a West Bengal Council of Higher Secondary Education recognised school, the petitioner was entitled to all her past service benefits although the school was neither receiving dearness allowance nor was the school a government aided school. It is also alleged on behalf of the petitioner that the petitioner had retired from service on 31 January 2017 and had been receiving pension of Rs 11955/- with effect from 1 February 2017. It is further submitted that the total qualifying service period for the petitioner had been calculated for a period of 15 years 1month and 26 days which excluded her service period served at Burnpur Girls' High School.
8. On behalf of Managing Committee, Burnpur Girls' High School it was submitted that the school was neither receiving dearness allowance nor was it an aided school. Moreover, neither Memo dated 27.4.2007 nor Memo dated 20 May 1988 applied to the said school. On the

contrary, the school was fully financed and controlled by the Indian Iron and Steel Company Ltd. It was also submitted that the school has no pension scheme for the teaching or the non-teaching staff working at the said school.

9. On behalf of the State respondents reliance was placed on the Government Order dated 20 May 1988 which provided as follows:

“that services rendered by a teaching or non teaching employee in unaided institution or institutions shall be counted towards pensionable service provided at the time of retirement/death/superannuation of the employee concerned the institution of institutions in which the incumbent served received aid from the government or any other body authorised by the government for the purpose.”

Accordingly, it is submitted that since the Burnpur Girls’ High School had exclusively been funded, administered and controlled by the Indian Iron and Steel Company Ltd., the petitioner was not entitled to have her past services taken into account. It was also submitted that since the petitioner had subsequently worked in an aided school i.e. Durgapur Pallymangal Balika Vidyamandir, Samabay Pally, Bally, District Howrah from 6 December, 2001 until her retirement on 31 January, 2017 she had been duly provided with appropriate pensionary benefits for the relevant period.

10. I have heard the parties and have also considered the submissions made on their behalf.

11. I am of the view that the Government Order dated 20 May 1988 categorically provides that a person shall only be entitled to have his or her past services counted towards pensionable service provided the person has rendered his or her services to a school which has been aided by the Government. I find that the Burnpur Girls' High School where the petitioner worked as an Assistant Teacher was never aided by the Government or by any authority of the State. In fact, I find that the State had never contributed towards staff payments of that particular institution. I also find that the Burnpur Girls' High School has always been run, controlled, administered and financed by the Indian Iron and Steel Company Limited. Accordingly, I am of the view that the Burnpur Girl's High School though recognised by the West Bengal Board of Secondary Education is not an aided institution.
12. I find that the authorities relied on by the petitioner have no application to the facts and circumstances of the instant case and are distinguishable. I reiterate that no aid or dearness allowance was ever provided to the Burnpur Girls' High School and thus the relevant Government circular being G.O No.180-Edu (8)/IM-33/88 dated 20 May 1988 is inapplicable to the petitioner in the facts of the instant case.
13. For the foregoing reasons, I am of the view that the impugned Memorandum does not warrant any interference whatsoever. There is no illegality nor perversity nor contravention of any law which justifies any interference with the impugned Memorandum. Hence, I find that the prayer of the petitioner for counting her past services in an unaided

institution in calculating pensionable benefits has been rightfully rejected.

14. Accordingly, WPA No.3873 of 2008 is dismissed. However, there will be no orders as to costs. IA CAN No.1 of 2008 (Old CAN No.7183 of 2008) and IA CAN No.2 of 2017 (Old CAN No.2404 of 2017) also stand disposed off.
15. Urgent certified photostat copies of this judgment, if applied for, be given to the parties upon compliance with all necessary formalities.

(Ravi Krishan Kapur, J.)