

13 24.09.2021
rkd Ct.05

W.P.A. 10341 of 2021
(Through Video Conference)

Arup Kumar Mondal

-vs-

The State of West Bengal & Ors.

Mr. K. M. Hossain

....for the petitioner.

Mr. Supriyo Chattopadhyay,
Ms. Iti Dutta

....for the State.

Writ petitioner is a headmaster in a Government aided recognized high school who retired on superannuation on 31st July, 2019. It is submitted by Mr. Hossain representing the writ petitioner that since he is implicated in a criminal case which is pending before the appropriate court the retiral dues were not released in his favour which prompted the writ petitioner to file a writ petition being WPA 6341 of 2020 which was disposed of by a coordinate Bench by passing order dated 14th October, 2020 thereby directing the concerned respondent authorities to release provisional pension in favour of the writ petitioner. Pursuant to the said order of this Court dated 14th October, 2020 provisional pension has been released in favour of the writ petitioner upon calculating provisional pension considering the pay drawn by the petitioner as per ROPA 2009 Rules

but it is contended on behalf of the writ petitioner that since he retired on 31st July, 2019 the calculation for release of provisional pension ought to have been done as per ROPA 2019 Rules. Petitioner prays for enhancement for provisional pension upon fixing last pay drawn by the petitioner in terms of ROPA 2019 Rules.

Mr. Chattopadhyay, learned senior Government advocate appears on behalf of the State respondent and submits that since the calculation was made by the school authority for release of provisional pension in terms of ROPA 2009 Rules the State respondents could not extend the benefit of ROPA 2019 Rules in favour of the writ petitioner at the time of releasing provisional pension. However, it has been fairly submitted by Mr. Chattopadhyay, that if necessary direction is given the respondent authorities can take steps for enhancement of provisional pension of the writ petitioner upon granting the benefit of ROPA 2019 Rules if petitioner is otherwise eligible.

Considering the submissions made on behalf of the parties to this writ petition this Court directs the District Inspector of Schools (S.E.), Sourth 24 Parganas to ask the teacher-in-charge of Gobindarampur Aswini Kumar High School (H.S.),

District- South 24 Parganas as well as the writ petitioner on 5th October, 2021 at twelve noon to remain present in his office when District Inspector of Schools with the assistance of the respondent no.5 as well as the writ petitioner will take necessary steps for granting benefit of ROPA 2019 to the writ petitioner by refixing the last pay drawn by the writ petitioner in terms of the said ROPA 2019 Rules. After the aforesaid exercise is complete if the respondent no.3 finds that the writ petitioner is eligible to receive the provisional pension under ROPA 2019 Rules the necessary steps shall be taken by the respondent no.3 for expeditious disbursal of the provisional pension as per the said ROPA 2019 Rules.

With the above direction, the writ petition is disposed of.

There shall be no order as to costs.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)