

Ct. 05
Item No.10
10.09.2021
(suvendu)

WPA 12604 OF 2021

(VIA VIDEO CONFERENCE)

Lucky Basumata
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Sayed Mansur Ali
.....for the petitioner

Ms. Koyeli Bhattacharyya
.....for the Board of Secondary Education

Mr. Bhaskar Prasad Vaisya
Mr. Sagnik Chatterjee
.....for the State

Affidavit of service filed in Court today is taken on record.

Pursuant to the earlier order dated 1st September, 2021 passed in this matter, supplementary affidavit filed today on behalf of the writ petitioner is taken on record.

The writ petitioner is an Assistant Teacher presently working in a Government aided school namely Santoshpur Vidyamandir for Girls High School with effect from 4th October, 2008. Prior to appointment of the writ petitioner in the said school in Kolkata, the writ petitioner was working in a school in the District of Cooch Behar with effect from 23rd December, 2002.

Mr. Ali, learned advocate appears on behalf of the writ petitioner and submits that on being recommended by the West Bengal Central School Service Commission, presently the writ petitioner is working in the school in Kolkata in a post which has been meant for Pass Graduate candidates but previously the writ petitioner used to enjoy Honours Graduate scale of pay in the school in Cooch Behar. It has further been submitted on behalf of the writ petitioner that she is aggrieved by Memo dated 31st March, 2014 issued by the Commissioner of School Education, Government of West Bengal, whereby prayer of the writ petitioner for sanctioning incremental benefits as well as pay protection has been spurned upon placing reliance on Government Order No. 269-SE (Pry) dated 16th April, 1996. It has further been submitted on behalf of the writ petitioner that the Commissioner of School Education has not disclosed the reasons in support of his such decision on pay protection save and except referring to the Government Order dated 16th April, 1996.

Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader appears on behalf of the State respondents and submits that the Government Order dated 16th April, 1996 is applicable in respect of the writ petitioner.

Therefore, the Commissioner of School Education has turned down the prayer of the writ petitioner.

This Court has heard the learned advocates representing the respective parties and considered the impugned Memo dated 31st March, 2014, at page 26 of the writ petition. On perusal of the said impugned Memo dated 31st March, 2014, it appears that the decision taken by the respondent no. 2 is cryptic and no reasons has been assigned in support of taking such decision against the claim of the writ petitioner save and except referring to the Government Order dated 16th April, 1996. The impugned Memo dated 31st March, 2014 is set aside and the Joint Secretary, School Education Department, Government of West Bengal is directed to take decision on the claim of the writ petitioner with regard to the incremental benefits and pay protection, as prayed for, if representation is made before the Joint Secretary by the writ petitioner. The writ petitioner will be at liberty to make a comprehensive representation before the Joint Secretary, School Education Department, within a period of fortnight from this date. If such representation is made within the time, as fixed above, before the Joint Secretary, School Education Department, the Joint Secretary in his turn shall consider such representation

within a period of twelve weeks from the date of receipt of such representation and the decision to be taken by the Joint Secretary shall be communicated to the writ petitioner within two weeks thereafter.

Leave is granted to the advocate-on-record of the writ petitioner to amend the cause title of the writ petition by adding the Joint Secretary, School Education Department, Government of West Bengal as a party respondent to this writ petition in course of this day.

Accordingly, the writ petition is disposed of without any order as to costs.

All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

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

(Saugata Bhattacharyya, J.)