

09.11.2021

BP
Sl. 242
Court No. 17

WPA 13345 of 2021

(Via Video Conference)

Dilip Kumar Das & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. S.S. Mandal
..for the petitioners.

Mr. Supriyo Chattopadhyay
Mr. Khaliqur Rahaman
..for the State.

Md. Sarwar Jahan
Sk. Nayeemul Haque
..for DPSC, Murshidabad.

This writ petition has been filed by twelve petitioners and I am told that full court fees in respect of this petition (affirmed on 5th May, 2021 and filed on 26th August, 2021) have been paid.

Mr. Bari, learned advocate for the petitioners submits that the petitioners are covered by one judgement delivered by appeal court in MAT 714 of 2020 with CAN 1 of 2021 and CAN 2 of 2021 and therefore, the petitioners also should get the benefit of the said order.

Mr. Jahan and Mr. Chattopadhyay, learned advocates for the District Primary School Council, Murshidabad and the State have vehemently opposed by saying that the appeal was in connection with the writ application of 2018. The present petitioners' salary were reduced in 2018. They have approached this court after the order of the appeal court was passed as referred above, which is in the nature of an interim order, on 11th February, 2021 and, therefore, as they have approached this court at a delayed stage they cannot get the advantage of the order of the appeal court.

Learned advocate Mr. Jahan has handed over a copy of the order passed by the appeal court in MAT 714 of 2020. I have gone through it and I find that though the writ application filed by the similarly circumstanced persons is delayed by three years there is no reason for denying them the benefit granted by the appeal court wherein it is stated that the respondents therein will get the salary of "A" category of scale of pay for the subsequent period till the disposal of the appeal without prejudice to the rights and contentions of the appellants of MAT 714 of 2020. It has been made clear in the said order of the appeal that in the event the appeal succeeds, any payment made in

terms of that order from October, 2018 may be refunded or adjusted against the future salaries of the writ petitioners subject to fulfillment of the aforesaid conditions the impugned order (in the appeal) in so far it concerns payment of the writ petitioners as Head Teacher of the Primary School shall remain stayed.

Here also the petitioners will get the salary of “A” category scale of pay and if the appeal being MAT 714 of 2020 succeeds they will refund the excess amount paid to them or it will be adjusted against their retiral benefits. Therefore, on the basis of the observation made in MAT 714 of 2020, this writ application is allowed and disposed of with the similar conditions as in the above appeal.

(Abhijit Gangopadhyay, J.)

