

Ct. 05
Item No.06
29.09.2021
(suvendu)

WPA 13641 OF 2021

(VIA VIDEO CONFERENCE)

Subrata Ray
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Ms. Tanuja Basak
Mr. Sk. Intiaj Uddin
.....for the petitioner

Mr. Malay Krishna De
Mr. Arunabha Maity
.....for the State

Mr. Biswaroop Bhattacharyya
.....for the respondent no.11

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

The writ petitioner was an Assistant Teacher in Malangapara K.C.B. Institution, District –North 24 –Parganas (for short, “said school”), on and from 12th September, 1987 and subsequently on the recommendation of the Secretary, West Bengal Regional School Service Commission vide Memo dated 17th August, 2001, the writ petitioner was appointed as an Assistant Headmaster in the said school with effect from 28th August, 2001. After discharging his duties as Assistant Headmaster of the said school, ultimately the writ petitioner

retired on 30th November, 2020 on his superannuation.

The grievance of the writ petitioner is that in spite of his retirement on superannuation, till date retiral dues has not been released in his favour.

Mr. Ekramul Bari, learned advocate appears on behalf of the writ petitioner and draws attention of this Court to the letter dated 28th November, 2020 issued by the Headmaster of the said school addressed to the Additional District Inspector of Schools (SE), Basirhat, whereby post-facto fixation of pay as Assistant Headmaster was prayed for with regard to the service of the writ petitioner for preparing the service book and pension papers as well as for determining the last pay drawn by the writ petitioner as Assistant Headmaster of the said school. It has been submitted that the said school authority issued the letter dated 28th November, 2020 for approval of post-facto fixation of the writ petitioner in view of the observation made by the concerned respondent authority with regard to fixation of pay of the writ petitioner as Assistant Headmaster of the said school which is at page 32 of the writ petition. It has been submitted on behalf of the writ petitioner that since he was appointed as Assistant Headmaster of the said school on and

from 28th August, 2001 on the recommendation of the West Bengal Regional School Service Commission dated 17th August, 2001 and at the time of joining the post of Assistant Headmaster of the said school, the Additional District Inspector of Schools (SE), Basirhat acknowledged the educational qualification of the writ petitioner as B.SC. (Honours), B. Tech, B.Ed and accordingly there was fixation of pay of the writ petitioner as Assistant Headmaster of the said school in the year 2001, therefore, the issue of fixation of pay of the writ petitioner as Assistant Headmaster cannot be raised after his superannuation on 30th November, 2020. It has further been submitted that the writ petitioner has enjoyed pay as Assistant Headmaster on and from 28th August, 2001 till the date of retirement on 30th November, 2020.

Mr. Biswaroop Bhattacharya, learned advocate appears on behalf of the Assistant Registrar, Calcutta University and draws attention of this Court to the clarification issued on behalf of the University which is at page 26 of the writ petition wherefrom it appears that B.Tech degree obtained by the writ petitioner was considered as Post Graduate degree.

Mr. Malay Krishna De, learned advocate appears on behalf of the State respondents and opposes the prayer of the writ petitioner by placing reliance on the observation made by the concerned respondent authority relating to fixation of pay of the writ petitioner as Assistant Headmaster of the said school in absence of post-facto approval required to be granted by the Additional District Inspector of Schools (SE), Basirhat, which is pending before him, and the said school authority has asked for such post-facto approval for settling the retiral dues of the writ petitioner.

This Court has considered the rival submissions made on behalf of the respective parties to this writ petition and taken note of the clarification issued by the Calcutta University, as it appears from the letter dated 11th June, 1990, wherefrom it has unequivocally been declared that the B.Tech degree, as acquired by the writ petitioner, is equivalent to Post Graduate degree. In addition thereto, it also appears from the recommendation Memo issued by the Secretary, West Bengal Regional Service Commission that the writ petitioner was duly recommended by the Commission vide Memo dated 17th August, 2001 for joining the post of Assistant Headmaster in the

said school and subsequent thereto, the Additional District Inspector of Schools (SE), Basirhat Sub-Division, by issuing memo dated 21st February, 2002 approved the appointment of the writ petitioner as Assistant Headmaster thereby acknowledging the educational qualification of the writ petitioner as B.Sc.(Honours), B.Tech., B. Ed. Subsequent to such approval granted in favour of the writ petitioner as Assistant Headmaster, he has enjoyed the pay as Assistant Headmaster in consideration of his Post Graduate degree –B.Tech for the period from 28th August, 2001 till the date of his superannuation on 30th November, 2020.

Considering chronological facts of this writ petition, there is no requirement for obtaining post-facto approval of pay fixation of the writ petitioner as Assistant Headmaster of the said school specially when learned advocate appearing on behalf of the State respondents has not been able to place any Circular requiring such exercise to be completed prior to finalisation of pension papers.

In above conspectus, this Court directs the concerned authority of the said school to forward all the pension papers of the writ petitioner including service book to the office of the Additional District Inspector of Schools (SE),

Basirhat Sub-Division, North 24 –Parganas, within a period of seven days from the date of communication of this order, if not already forwarded and on receipt of such pension papers, the said Additional District Inspector of Schools (S.E.), Basirhat Sub-Division, being the respondent no. 4, is directed to finalise the pension case of the writ petitioner and forward the same to the Director of Pension, Provident Fund and Group Insurance, respondent no.6, within a period of four weeks thereafter. On receipt of such pension papers of the writ petitioner, the respondent no.6 is directed to issue Pension Payment Order in favour of the writ petitioner within four weeks thereafter, if the writ petitioner is otherwise eligible to receive his retiral dues.

Accordingly, the writ petition stands 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, is to be given to the parties upon compliance with the necessary formalities.

(Saugata Bhattacharyya, J.)