

20.12.2021

Court : 04
Item : 278
Matter : MAT
Status : DISPOSED OF
Transcriber: nandy

**MAT 1351 of 2021
with
CAN 1 of 2021**

The Managing Committee,
Vidya Vikash High School (H.S.).
Vs.
Gita Barai & Ors.

Mr. Biswaroop Bhattacharya, Advocate
Mr. Pratik Majumdar, Advocate

.....for the Appellant

Mr. Bhaskar Prasad Vaisya, Ld. A.G.P.
Mr. Suman Dey, Advocate

.....for the State

Mr. Himadri Barua, Advocate
Mr. Biswajit Das, Advocate

.....for the Private Respondents

Ms. Koyeli Bhattacharya, Advocate

.....for the Respondent No. 5

The innocuous order passed on December 13, 2021 by the Single Bench directing the President of the Managing Committee and the Teacher-in-charge of the School to appear personally with a cheque covering the amount of the provident fund of the petitioner on December 22, 2021, is assailed in this mandamus appeal.

The aforesaid order is challenged on the premise that the deceased-teacher was terminated and/or was dismissed from service upon a validly constituted proceeding and, therefore, not entitled to any amount admissible to such service. Our attention is drawn to the fact that the appellant authority did not accept the contention that the deceased-teacher was terminated in a validly constituted proceeding and the same is assailed in the said writ-petition

which is pending.

The fact remains that the wife of the deceased has not received any amount, be it retiral or otherwise from the authority. The earlier order, which was passed against the appellant that the entire retiral benefit should be released, is in fact, modified in the impugned order and restricting to the disbursement of the provident fund amount.

The District Inspector of School and the appellants are not *ad idem* on their respective contentions. It appears to us that there is an attempt to shirk the responsibility from one shoulder to another having the resultant effect of deprivation of the wife of the deceased-teacher.

Since the order does not appear to us, having passed illegally and/or in excess of jurisdiction, no interference is called for.

The appeal being **MAT 1351 of 2021** is **dismissed**. No order as to costs.

In view of disposal of the main appeal itself, the connected application being **CAN 1 of 2021** is also **dismissed**.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

