

08.01.2021

rpan / 44
Court No.25
Video Conference

W.P.A. No. 21375 of 2019
Smt. Sunanda Mandal
- Versus -
The State of West Bengal & Others

Mr. Arnab Mukherjee,
Mr. Subhabrata Bhaduri
... for the petitioner.
Mr. Malay Kumar Singh,
Mr. Rajaram Banerjee
... for the State.

Affidavit of service filed by the petitioner be kept on record.

Mr. Mukherjee, learned advocate appearing for the petitioner prays for leave to implead the Director of Pension, Provident Fund and Group Insurance as a party respondent to the present writ petition. Such prayer is considered and allowed. The learned advocate-on-record of the petitioner is granted leave to make necessary correction in the cause title of the writ petition.

As Mr. Singh, learned advocate appearing for the State respondents can also appear for the added respondent no.10, service of a copy of the writ petition upon the added respondent is dispensed with.

Mr. Mukherjee submits that the petitioner was appointed to the post of an Assistant Teacher in Tollygunge Girls' High School (in short, the said school) on 26th September, 1987. She retired from her service on 31st December, 2018. During her

service tenure she applied for Child Care Leave (in short, CCL) in terms of the government order. As CCL for a period from 18th January, 2016 to 16th March, 2016 was not sanctioned, the petitioner was constrained to approach this Court by filing a writ petition, being W. P. No. 5009(W) of 2017. During pendency of the same and in reply to an application submitted under Section 6 of the Right to Information Act on 26th July, 2019, the learned advocate of the said school intimated the petitioner by a letter dated 20th August, 2019 that CCL for all the periods as claimed, including the period from 18th January, 2016 to 16th March, 2016, save and except the periods from 3rd July, 2018 to 1st September, 2018 and 12th September, 2018 to 29th September, 2018, have been sanctioned. As CCL for the period from 18th January, 2016 to 16th March, 2016 has already been sanctioned, the earlier writ petition has become infructuous.

He submits that the school authorities have illegally withheld the sanction of CCL for the periods from 3rd July, 2018 to 1st September, 2018 and from 12th September, 2018 to 29th September, 2018 and have not forwarded her pension papers to the pension sanctioning authority, being the respondent no.5.

Drawing the attention of this Court to a memo dated 19th August, 2019 issued by the said respondent no.5, Mr. Mukherjee submits that the

school authorities have not completed the pension papers of the petitioner and for such inaction on their part, the petitioner is suffering and is yet to get her pensionary benefits.

Mr. Singh, learned advocate appearing for the State respondents submits that there has been no inaction on the part of the respondent no.5. The pension papers along with relevant records have not been forwarded as yet by the school authorities. Unless the said papers are forwarded, no follow up steps can be taken by the respondent no.5.

Records reveal that there had been a long-standing dispute between the petitioner and the school authorities. CCL for different periods were initially withheld by the school authorities. Subsequently, CCL for all the periods from 1st September, 2015 till 28th April, 2018 were ultimately sanctioned. However, there still remains a dispute as regards the sanction of CCL for a period from 3rd July, 2018 to 1st September, 2018 and a period from 12th September, 2018 to 29th September, 2018. The said dispute needs to be finally resolved and the pension papers need to be completed and forwarded to the respondent no.5 by the school authorities.

By a letter dated 30th July, 2019 annexed at page 46 of the writ petition, the Headmistress of the said school intimated the petitioner that the school authorities have already rectified the service book, the leave statement and pay fixation, as per the

government rules. By the said letter the petitioner was requested to visit the school and to check the said records and to endorse the same. In the said letter it had also been alleged that an overdrawn amount needs to be deposited by the petitioner. The allegations in the said letter have been disputed by Mr. Mukherjee.

Under the pension scheme the authorities are under obligation to settle the claim for pension and to start disbursement of the pension immediately after the teacher's retirement. The respondent no.5 is the authority competent under the pension scheme to resolve the dispute between the petitioner and the school authorities and to settle the petitioner's claim towards disbursement of the pensionary benefits.

In view thereof, this Court directs the respondent no.5 to consider the last representation submitted by the petitioner through her learned advocate on 16th September, 2019 and to initiate steps towards disbursement of the pensionary benefits, upon granting an opportunity of hearing to the petitioner and the school authorities within a period of six weeks from the date of communication of this order.

It is made clear that the school authorities shall appear before the respondent no.5 on the date fixed for hearing together with all original relevant records. The petitioner shall also be personally

present before the respondent no.5 on the said date of hearing so that all defects can be cured and the pension claim can be settled. After the defects are cured, the respondent no.5 shall transmit the pension papers to the added respondent no.10 so that the petitioner gets her pension and other retiral benefits.

The said respondent no.5 shall supervise the process of release of the pensionary benefits by suitably advising the school authorities as well as the petitioner, as and when required.

If upon hearing the parties and for any pressing reason the respondent no.5 is unable to settle the pension claim, an order detailing the reasons shall be communicated to the petitioner within the period as specified above.

The petitioner is directed to immediately intimate this order to the respondent nos.7-9.

With the above observations and directions the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.

(Tapabrata Chakraborty, J.)