

04.01.2021

rpan / 16
Court No.25
Video Conference

W.P.A. No.9780 of 2020
Jyotirmoy Basu
- Versus -
West Bengal Board of Secondary
Education & Others

Mr. Soumya Majumder,
Ms. Sanjukta Dutta
... for the petitioner.
Ms. Koyeli Bhattacharya
... for the Board.

Affidavit of service filed by the petitioner be kept on record. No one appears on behalf of the State respondents and the school authorities.

Drawing the attention of this Court to the averments made in paragraph 13 of the writ petition, Mr. Majumder, learned advocate appearing for the petitioner submits that the subsistence allowance, due and payable to the petitioner, has been illegally withheld. Such fact was intimated to the teacher-in-charge of the Margram High School (in short, the said school) by a letter dated 15th October, 2020 but no steps have been taken.

He further submits that the petitioner was appointed to the post of Headmaster in the said school) on 24th May, 2007. On 26th March, 2019 he was asked to appear for a hearing before the West Bengal Board of Secondary Education (in short, the

said Board). On the said date the petitioner duly appeared and a decision was taken by the disciplinary authority to suspend him from service with immediate effect. The said decision was communicated to the petitioner *vide* memo dated 26th March, 2019.

Drawing the attention of this Court to Rule 6(3) of the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staff) Rules, 2018 [in short, the said Rules], Mr. Majumder submits that as no disciplinary proceeding has been initiated within 90 days, the petitioner should be allowed to resume his duties.

Ms. Bhattacharya, learned advocate appearing for the Board denies and disputes the contention of the petitioner and submits that the writ petition has been preferred primarily praying for disbursement of subsistence allowance. No representation has been submitted by the petitioner to the disciplinary authority praying for any order towards resumption of duties. In view thereof, the allegation as levelled against the disciplinary authority is not sustainable.

Indisputably, the order of suspension has been issued on 26th March, 2019. The said order refers to a correspondence of the respondent no. 3

dated 15th February, 2019. No disciplinary proceeding has yet been initiated against the petitioner.

A perusal of Rule 6(3) of the said Rules reveals that in the event no disciplinary proceeding is initiated within 90 days from the date of receipt of the investigation report, the concerned teacher may be allowed to resume his duty subject to the condition that such joining of the teacher will not hamper the normal running of the institution.

In my opinion, the petitioner's claim towards resumption of duty needs to be considered by the disciplinary authority since no disciplinary proceeding has been initiated against the petitioner within the time period as specified under Rule 6(3) of the said Rules.

In view thereof, the writ petition is disposed of with liberty to the petitioner to submit a representation to the disciplinary authority, being the respondent no.2, with a prayer to allow him to resume his duties, within a period of two weeks from date.

In the event such representation is submitted, the respondent no.2 shall consider the same, upon granting an opportunity of hearing to the petitioner and the school authorities and to

take a decision, in accordance with law and to communicate the same to the petitioner, within a period of four weeks thereafter.

The authorities of the said school are also directed to disburse all arrears of subsistence allowance, if any, due and payable to the petitioner within a period of two weeks from the date of communication of this order, subject to compliance of necessary formalities, if any, by the petitioner. The petitioner shall also be paid his monthly subsistence allowance.

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.)