

13.04.2021
Item No. 25
Ct. No.6
Saswata/AD

WPA 11040 of 2020
(Via video conference)
Partha Pratim Mondal
-vs-
The State of West Bengal & Ors.

Ms. Reshmi Ghosh
Mr. Lakshminath Bhattacharya
... for the petitioner.

Mr. Gourav Das
... for the DPSC, South 24-Parganas.

1. The petitioner says that he is an Assistant Teacher of a Primary School. In March 2020, he was arrested on charges under Section 376(2) of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act. He was in custody for more than 48 hours. Then he obtained bail.
2. However, under the applicable rules, he is deemed to be under suspension for having been in police custody for more than 48 hours. He says that he is not receiving his subsistence allowance. He also wants to rejoin the school. To that effect, he has made a representation dated July 7, 2020 addressed to the Chairman of the DPSC, South 24-Parganas.
3. Learned advocate appearing for the DPSC in his usual fairness submits that the petitioner's claim for subsistence allowance cannot be opposed. In law, he is entitled to receive such allowance.

4. Accordingly, I direct the respondent nos.3 & 4 to pay the admissible subsistence allowance to the petitioner including the arrear allowance in accordance with law. Such payment should be released within four weeks from the date of receipt of a copy of this order by the concerned respondents.
5. Insofar as the petitioner's prayer for rejoining the school as teacher is concerned, let the petitioner's request in the form of the aforesaid representation dated July 7, 2020, be considered by the respondent no.4 and a reasoned decision be taken thereon in accordance with law within four weeks from the date of receipt of a copy of this order after giving an opportunity of hearing to the petitioner or his authorized representative. The decision so taken by the respondent no.4 shall be communicated to the petitioner within a week from the date of the decision.
6. As regards the petitioner's prayer for rejoining the school, I have not gone into the merits of such prayer.
7. Respondent no.4 shall take an informed decision in accordance with law.
8. The petitioner shall be entitled to rely on judicial precedents at the hearing to be afforded to him by the respondent no.4.

9. The writ petition being WPA 11040 of 2020 is disposed of accordingly.
10. Since I have not called for any affidavits, the allegations made in this writ petition are deemed not to have been admitted.
11. Urgent photostat certified copy of this order, if applied for, be given to the parties upon completion of requisite formalities.

(Arijit Banerjee, J.)