

13.01.2021
S/L No. 26
Court No.12
s.biswas

MAT 823 of 2020
With
CAN 1 of 2020

*The President of the Managing Committee,
Golabari PallimaNGAL High School (H.S.) & Ors.*
Vs.
Raju Jana & Ors.

(Through Video Conference)

Mr. Bikash Chandra Das
Mr. Tirthankar Roy

... ... for the appellants

Mr. Kallol Basu

... ... for the writ petitioner/respondent.

Mr. Tulsi Das Roy

... ... for the State

By consent of the parties the appeal and the application are taken up together and disposed of by this common order.

The appeal is directed against an interim order passed on 11th December, 2020 by the learned Single Judge in which the petitioner complained that he was not receiving salary since December, 2018 and he was also not allowed to join his duty on and from 1st July, 2019. The learned Single Judge on the basis of these submissions made by the parties which include the present appellants directed the present appellants to take appropriate steps towards disbursement of the arrear salary of the writ petitioner/respondent No.1 with effect from December, 2018 till November, 2020 upon sending requisition to the District Inspector of Schools (S.E.), North 24-Parganas by 28th December, 2020. The matter was directed to appear

on 14th January, 2021 on which date the Headmaster Golabari Pallimangal High School (H.S.) was directed to file a report in the form of an affidavit apprising the Court the steps taken on the basis of the impugned order.

The consideration that weighed with the learned Single judge in passing the order are:-

- (i) Reply of the District Inspector of Schools (S.E.), North 24-Parganas to an application under Right to Information Act informing the writ petitioner/respondent No.1 that no order had been issued from his office to stop the petitioner's salary;
- (ii) No order of suspension has been issued and no disciplinary proceeding initiated against the writ petitioner/respondent No.1.

The aforesaid two factors, in our view, are relevant considerations when the Court decides the complaint of this nature.

The learned Counsel appearing for the appellants, however, has drawn our attention to a communication dated 4th July, 2018 from Muktir Shiksha College of Education to give an impression that he had not pursued the course due to want of migration certificate. However, it cannot be denied that on 26th July, 2017, the Managing Committee released the petitioner from the school duty on self-same date for pursuing B.Ed. Regular course for the Session 2017-2019. Following which he pursued his

course of B.Ed. at Boichee College of Education under the University of Burdwan.

Mr. Kallol Basu, learned Counsel appearing on behalf of the writ petitioner/respondent no.1 has produced before us a mark-sheet issued by the University of Burdwan showing that he has completed his B.Ed. Course.

Sri Raju Jana, the writ petitioner/respondent No.1, personally present in Court, has handed over Grade Card to his Counsel, Mr. Basu, is produced before us. The said document duly counter-signed by the Assistant Court Officer of this court is kept with the record.

On such consideration, we feel that the view taken by the learned Single Judge does not call for any interference.

The appeal being MAT 823 of 2020 and the connected application being CAN 1 of 2020, accordingly, stand dismissed.

However, there shall be no order as to costs.

The direction for payment of arrear salary and regular monthly salary shall abide by the result of the writ petitioner. The petitioner shall give an undertaking that in the event the writ petition is dismissed, he shall return all amount calculated to have been paid in excess. Such affidavit of undertaking shall be filed before the learned Trial Court within a period of one week from date.

The learned Single Judge shall decide the writ petition in view of the observations made by us in this appeal.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Saugata Bhattacharyya, J.)