

Court No. 24

18.02.2022

(Item No. 1)

(AB)

W.P.A. 1073 of 2022
(via video conference)

Nalin Bihari Sarkar

VS

The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya)

..... for the petitioner

Mr. Bhaskar Prasad Vaisya

Mr. Suman Dey

..... for DPPG

Mr. Shamim Ul Bari

..... for DPSC, Malda

Ms. Sanghamitra Nandy

Mr. Parikshit Goswami

..... for the State

The petitioner was appointed as a primary school teacher by the District Inspector of Schools, District School Board, Malda with effect from 5th November, 1971. According to the petitioner, he was serving as the organizing teacher in the school on and from 1st January, 1971.

The school in question was formally recognized by the State on and from 1st January, 1971. The service record of the petitioner, duly countersigned by the Sub-Inspector of Schools, mentions that the service of the petitioner for the period 1st January, 1971 to 31st March, 1994 has been verified from the available office records and found correct.

The petitioner retired from service on attaining his normal age of superannuation on 31st January, 2009.

By a communication dated 8th February, 2021 issued by the Sub-Inspector of Schools, Gazole Circle, Malda, the petitioner has been directed to refund the overdrawal amount for the period 1st January, 1971 till his date of appointment on 5th November, 1971.

Instructions were sought for from the District Inspector of Schools with regard to the status of the petitioner and whether he actually served the school for the period from 1st January, 1971 till his date of appointment on 5th November, 1971.

The District Inspector of Schools Primary Education, Malda has submitted a report before this Court dated 10th February, 2022 wherein it has been clearly mentioned that the petitioner was appointed as Organizing Teacher of the institution which was recognized on and from 1st January, 1971. There is no appointment letter in favour of the petitioner with effect from 1st January, 1971 and the appointment letter has been issued in his favour on 5th November, 1971. It has further been mentioned that the petitioner actually served the institution with effect from 1st January, 1971 as per the available records.

From the instruction that has been received from the District Inspector of Schools it is abundantly clear that the petitioner served the institution with effect from 1st January, 1971 as an organizing teacher and the appointment letter was formally issued in his favour on 5th November, 1971.

Accordingly, the direction given upon the petitioner for refund of the overdrawal amount long after his retirement cannot be sustained in the eye of law. The direction given by the Sub-Inspector of Schools for refund is accordingly set aside.

It has been submitted by the District Inspector of Schools that the leave of the petitioner has already been sanctioned.

Accordingly, the respondent authority is directed to process the pension file of the petitioner and to ensure that the retirement dues of the petitioner are released in his favour at the earliest. The respondent authority shall take all necessary steps to ensure that the retiral dues of the petitioner are disbursed in his favour within a period of six months from the date of communication of this order upon compliance of all necessary formalities.

It appears from the submissions made on behalf of the petitioner that steps were not taken by him in proper time for sanction of the leave and accordingly his pension case could not be processed.

As it appears that there has been laches on the part of the petitioner himself in submitting the necessary papers for sanction of pension and other retiral dues, accordingly, he will not be entitled to any interest on account of delayed payment of his retirement dues. The delay caused in disbursing payment cannot be attributed to the State respondents.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)