

50. 23.09.2022
bd. Ct.15

W.P.A. 1086 of 2020

Dipendra Nath Mondal & Anr.

-vs-

State of West Bengal & Ors.

Mr. Ekramul Bari
Sk . Imtiajuddin
... for the petitioners.

Ms. Chaitali Bhattacharya
... for the State.

Mr. Saibal Kumar Acharyya
... for the respondent no. 9

The writ petition is taken up for consideration in presence of the learned advocates representing the petitioners, School authority of Bagichapur Najrul Smriti High School (hereinafter referred to as the “said school”), District- Dakshin Dinajpur and the State respondents.

The principal grievance of the petitioners is that on recognition of the said school with effect from 1st May, 2001 both the petitioners were accorded approval of appointment vide memo dated 19th July, 2007 with effect from 1st May, 2001 and accordingly they have completed 18 years continuous approved service on 30th April, 2019 but on successful completion of 18 years approved service the benefits which petitioners are entitled to receive till date have not been accorded in their favour.

Mr. Bari, learned advocate, representing the petitioners has submitted that the approval which

has been accorded in favour of the petitioners vide memo dated 19th July, 2007 with effect from 1st May, 2001 was subsequently extended vide memo dated 5th September, 2008 with effect from 1st May, 2002 till date therefore there ought not to be any impediment in sanction of 18 years service benefits in favour of the petitioners taking into account the date of commencement of approved service with effect from 1st May, 2001.

The said school authority is represented by Mr. Acharyya, learned advocate who supports the contention of the petitioners and prays for necessary direction to be issued for sanction of such benefits.

However, State respondents are represented by Ms. Bhattacharya, learned senior Government advocate who has opposed such prayer on the ground that in terms of memo dated 15th February, 2018 issued by the Additional District Inspector of Schools Gangarampur Sub-Division at Buniadpur, District- Dakshin Dinajppur, it appears that posts were created pursuant to the order passed by the Hon'ble Court dated 27th August, 2008 on the writ petition being W.P.20868 (W) of 2008. It has been contended that if the posts which are being manned by the petitioners were created pursuant to the order dated 27th August, 2008 in that event the approval of appointment of the petitioners with effect from 1st May, 2001 as it emanates from memo dated 19th July, 2007 may not be construed as an approval while computing length of service.

This Court has heard learned advocates representing the parties and perused the relevant materials available on record.

There is no denying the fact that if the teacher is working on an approved post for a continuous period of 18 years in that event the concerned teacher is entitled to receive 18 years service benefits under the Career Advancement Scheme.

It has been contended on behalf of the petitioners that initial date of approval of both the petitioners to be reckoned on and from 1st May, 2001 as it appears from approval memo dated 19th July, 2007 which is opposed by the learned advocate representing the State respondents upon placing reliance on the memo dated 15th February, 2018 issued by the Additional District Inspector of Schools Gangarampur Sub-Division, Buniadpur, District-Dakshin Dinajpur.

In view of the aforesaid contradictory facts as emanates from the submissions of the learned advocates representing the parties this Court finds it apt to direct the Commissioner of School Education, being respondent no. 3 to take a decision on entitlement of the petitioners to receive 18 years service benefits within a period of twelve weeks from the date of communication of this order by passing a reasoned order. Before taking such decision both the petitioners shall be granted opportunity of being heard. At the time of taking decision the respondent no. 3 shall hear the

representative of the said school authority as well as District Inspector of Schools (SE), Dakshin Dinajpur. The decision to be taken by the respondent no. 3 shall be communicated to both the petitioners within one week thereafter.

However, it is made clear that if it is found by the respondent no.3 while taking decision that initial date of approval of appointment on recognition of the said school was granted in favour of the petitioners on 1st May, 2001 and with effect from 1st May, 2001 if petitioners are found to be in continuous approved service for a period of 18 years in that event 18 years service benefits as sought for by the petitioners shall not be denied.

With the aforesaid direction the writ petition stands disposed of.

However, there shall 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 on the usual undertakings.

(Saugata Bhattacharyya, J.)