

WPA 3613 of 2021
With
CO 11154 (W) of 1989

Rabindra Nath Roy
Vs.
The State of West Bengal & Ors.

Mr. S.N. Biswas

...for the petitioner

Mr. Biswabrata Basu Mallick
Mr. Sanjib Das

..for the State

Mr. Arindam Chattopadhyay
..for the DPSC, Nadia

Matter pertains to grant of notional benefit with effect from 16th June, 1997 till the date of appointment of the petitioner as primary teacher in the district of Nadia in the year 1999. Petitioner was appointed as a primary teacher vide appointment letter dated 28th June, 1999 issued by the Chairman, Ad-hoc Committee, Nadia District Primary School Council pursuant to the order dated 13th March, 1991 passed by a coordinate Bench on the writ petition being C.O. 11154 (W) of 1989.

Mr. S.N. Biswas, learned advocate appearing for the petitioner has submitted that wrongly the prayer of the petitioner for grant of notional benefit has been turned down by the Assistant Secretary, School

Education Department vide memo dated 16th December, 2020, which has been put under challenge in the present writ petition.

This Court has perused the said memo of the Assistant Secretary dated 16th December, 2020 whereby the claim of the petitioner for notional benefit was rejected since the petitioner was not party to the intra court appeal being FMA 1450 of 2011.

However, attention of this Court has also been drawn to the order of the Principal Secretary, School Education Department as contained in memo dated 15th May, 2019 wherein similarly circumstanced other primary teachers were granted similar notional benefit having been found that they were parties to the writ petition being C.O. 11154 (W) of 1989.

Having considered the case made out on behalf of the petitioner, this Court found it fit to call for records of the writ petition being C.O. 11154 (W) of 1989 in order to ascertain whether the petitioner in the present writ petition was a party to the said writ petition of 1989.

Pursuant to the previous orders passed by this Court on this writ petition, the department has placed the records of the writ petition of 1989 and the records have been perused wherefrom it appears that the writ petitioner namely Rabindra Nath Roy along with some

other candidates took out an application for being added as parties to the writ petition being C.O. 11154 (W) of 1989. It also appears that the writ petitioner was added as petitioner in the said writ petition along with other applicants as petitioner nos. 69 to 83.

Since it appears from the records of the writ petition being C.O. 11154 (W) of 1989 that the petitioner in the present writ petition was one of the petitioners upon addition, therefore, it also appears to this Court that the notional benefit which has been extended to similarly circumstanced candidates vide order dated 15th May, 2019 of the Principal Secretary, School Education Department ought to be extended to the present petitioner.

In the impugned memo dated 16th December, 2020 issued by the Assistant Secretary, School Education Department the fact whether present petitioner was party to the writ petition being C.O. 11154 (W) of 1989 was not gone into and the Assistant Secretary simply rejected the claim of the petitioner since the petitioner was not party to the intra court appeal being FMA 1450 of 2011. In view of the order of the Principal Secretary dated 15th May, 2019, page 65 of the writ petition, the order of the Assistant Secretary, School Education Department dated 16th December, 2020 cannot survive since present

petitioner was party to the writ petitioner being C.O. 11154 (W) of 1989.

Accordingly, the order of the Assistant Secretary, School Education Department dated 16th December, 2020 stands set aside. The concerned respondent authorities specially the District Inspector of Schools (P.E), Nadia and the Chairman, District Primary School Council, Nadia are directed to take necessary steps for grant of notional benefit in favour of the petitioner with effect from 16th June, 1997, as was also directed by the Hon'ble Division Bench in the order dated 11th May, 2015 on an intra court appeal being FMA 1450 of 2011, within a period of 4 (four) weeks from the date of communication of this order and petitioner shall be paid all consequential benefits upon sanction of such notional benefit from the aforesaid date.

With the above direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

The records of writ petition being C.O. 11154 (W) of 1989 be sent to the department.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)

