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06.04.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 2925 of 2022

**Batuk Bhairab Ray @ Batuk Bhairab Roy
-versus
State of West Bengal & Ors.**

**Mr. Ritam Chowdhury.
...For the Petitioner.**

**Ms. Anwari Quraishi,
Ms. Zainab Tahur.
...For the State.**

The petitioner is a retired primary school teacher. He was involved in a criminal case being Faridpur Police Station Case No. 18 of 2007 under Section 498A/306 IPC. He was arrested in connection with the said case on 14th May, 2007 and was granted bail on 22nd June, 2007.

The petitioner was formally put under suspension by memo dated 30th August, 2007 as he was in custody for more than 48 hours.

No disciplinary proceeding was initiated against him.

The petitioner attained his normal age of superannuation on 31st July, 2009. The criminal case that was filed against the petitioner is sub-judice and pending till date.

After his retirement, the petitioner was paid his provident fund dues but he is yet to receive the gratuity, pension and other terminal benefits. The arrear salary for the period during which he was under suspension, has also not been disbursed.

Provisional pension for the period 1st August, 2009 to 31st March, 2011 and for the period 1st April, 2011 till 31st July, 2011 was released in favour of the petitioner in the year 2011 and 2013 respectively.

Presently, the petitioner submits that he is nearly 73 years of age and suffering from various old age ailments. He is in urgent requirement of finance for his living as well as medical treatment.

It has further been submitted that there is no possibility of the criminal case being disposed of in the near future.

Prayer has been made for releasing his terminal benefits.

This Court in the matter of Anadi Prasad Mahato –vs- State of West Bengal & Ors. reported in 2014 (2) CHN (Cal) 103 and in the matter of Gunamay Mahata –vs- The State of West Bengal & Ors. reported in 2015 SCC Online CAL 7503 held that as the offence of the petitioner had no nexus with his service and there is no allegation of pecuniary loss of the Government by the petitioner during his service tenure accordingly the respondent authorities cannot withhold the terminal benefits of the retired teacher.

In the present case also the allegation against the petitioner is no way connected to his service. There is

no allegation of pecuniary loss caused by the petitioner during his service tenure.

Accordingly, there is no reason to withhold the pensionary benefit/terminal relief of the petitioner.

It appears that the suspension order which was passed on 30th August, 2007 has not been withdrawn till date. In the meantime the petitioner attained his normal age of superannuation on 31st July, 2009. No decision has been taken by the Council as regards continuing with the order of suspension even after the petitioner retired from service.

It is time that the Council reviews the order of suspension and take a decision as to whether any purpose will be served by keeping a retired teacher in suspension at this stage. Accordingly the Council is directed to take a decision and pass order upon reviewing the order of suspension of the petitioner within a period of four weeks from the date of communication of this order.

In view of the law laid down by this Court in the matter of Anadi Prasad Mahato (supra) and Gunamay Mahato (supra), the District Primary School Council, Burdwan, through the Chairman, District Primary School Council, Burdwan and the District Inspector of Schools (P.E.), Burdwan are directed to take necessary steps to disburse the full pension and all other terminal benefits to the petitioner after adjustment of the money which has been paid and received by the petitioner, without any further delay.

Steps shall be taken to release the dues of the petitioner positively within a period of six months from the date of communication of a copy of this order.

The petitioner is directed to forward a copy of all the supporting documents in his favour for grant of terminal relief to him at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)