

15.03.2022
SL No. 59
Court No. 24
(P.M)

WPA 3633 of 2022

Moushumi Mondal
Vs
The State of West Bengal & Ors.

Mr. Aniruddh Poddar,
Ms. Pallavi Gogoi
... for the petitioner

Mr. Gausul Alam,
Mr. Milan Kumar Maity
... for the State.

Mr. Sandip Kumar De,
Mr. Abhijit Sarkar,
Mr. Abhik Chatta Kundu
... for respondent No. 6

The petitioner was appointed as an Assistant Teacher of St. Ann's Free Primary School. There were certain issues with regard to the selection process and a writ petition was filed by the School before this Court. In compliance of the direction passed by the Court the matter was considered by the Principal Secretary, School Education Department and by an order dated 30th July, 2021 the Principal Secretary directed the District Inspector of Schools to consider the three vacant posts of the concerned School as vacant sanctioned posts for according approval of appointment as per existing norms.

The D.I. (PE) was directed to take necessary steps for according approval of appointment of the

teachers following the existing norms within four weeks from the date of receipt of the order and to submit a report to the Department.

The Principal Secretary observed that the concerned District Inspector of Schools cannot deny the responsibility for processing the case and for the inordinate delay in the same. The Commissioner of School Education, West Bengal was requested to show cause the concerned District Inspector of Schools to explain his action and to take appropriate action against him after getting the reply.

The District Inspector of Schools, Primary Education, Kolkata by an order dated 23rd August, 2021 approved the appointment of the petitioner on and from 30th July, 2021 that is the date of issuance of the reasoned order by the Principal Secretary.

The petitioner filed representation against such action of the DI in granting approval from the date of passing the reasoned order by the Principal Secretary instead of approval from the date of joining the School in her post.

The representation was duly considered and by an order dated 9th September, 2021 the Joint Secretary, School Education Department directed the DI (P.E.), Kolkata to rectify the date of approval of the teacher. The Joint Secretary forwarded a copy of the

aforesaid decision to the Commissioner of School Education to obtain explanation from the DI as to why he did not accord approval from the date of joining.

The District Inspector of Schools, Primary Education, Kolkata by an office order dated 10th September, 2021 passed order that the date of approval of appointment of the petitioner should be read as 19th August, 2017 in place of 30th July, 2021.

The grievance of the petitioner is that her arrear salary for the period from 19th August, 2017 till 31st October, 2021 has not been paid till date. Repeated representations from the petitioner remain unanswered.

Learned advocate representing the State respondents submits, upon instruction, from the District Inspector of Schools, Primary Education, Kolkata that the Sub-Inspector of Schools, Circle VIII, Kolkata submitted requisition of arrear salary in respect of the petitioner for the period 19th August, 2017 to 31st October, 2021. The said claim has been sent by the District Inspector of Schools (P.E), Kolkata to the Deputy Director of School Education (RP) for allocation of fund of Rs. 13,58,869/- only vide office memo No. 50/PH dated 7th March, 2022. The arrear salary cannot be paid to the petitioner as fund has not yet been made available. As soon as the allotment is

received, the bill for arrear salary will be drawn and disbursed in favor of the petitioner from the Pay and Accounts Office II, Kolkata.

It appears from the submission made on behalf of the parties and the documents annexed to the writ petition that the claim of the petitioner for arrear salary has been admitted by the respondents and bill to the aforesaid amount has already been placed before the appropriate authority. The arrear salary will be paid upon allocation of funds.

The petitioner has been compelled to approach this Court on repeated occasions due to the arbitrary action of the concerned District Inspector of Schools. The genuinity of the claim of the petitioner has already been accepted. Had the District Inspectors of Schools acted in strict compliance of the Rules, then the petitioner would have been saved from the trouble of approaching the Court for relief. The Principal Secretary and thereafter the Joint Secretary, on two occasions, requested the Commissioner to take appropriate step against the erring DI, but it seems that the DI has not taken the issue seriously.

The Commissioner of School Education and the Deputy Director of School Education are directed to take necessary steps for releasing the funds, bills whereof has been raised on 7th March, 2022.

The aforesaid amount shall be paid to the petitioner with interest at the rate of 10% per annum on and from the due date till the date of actual payment.

The interest that will be paid to the petitioner shall be recovered from the salary of the concerned District Inspector of Schools (Primary Education), Kolkata for whose illegal/arbitrary action there has been delay in according approval of appointment of the petitioner, resulting in non-disbursal of salary for a considerable period.

The Commissioner of School Education shall ensure that payment is disbursed in favour of the petitioner at the earliest, but positively within a period of three months from the date of communication of a copy of this order.

The instruction given by the District Inspector of Schools, Primary Education, Kolkata dated 8th March, 2022 be retained with the records.

Affidavit of service filed in Court is taken on record.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)