

297. 08.08.2022
Bd. Ct.15

W.P.A. 3645 of 2020

Shashi Sinha @ Shashi Kiran

-vs-

The State of West Bengal & Ors.

Mr. Chandan Dutta

....for the petitioner.

Mr. Suman De

....for the State.

Affidavit of service filed on behalf petitioner
is taken on record.

The petitioner's husband was an assistant teacher of St. Joseph's High School, Burdwan, who was suspended with effect from 11th August, 2008 and based on charge-sheet dated 31st October, 2008 was dismissed from service on 29th November, 2008. Had he not been dismissed from service in that event husband of the petitioner would have been retired on 31st December, 2008. Questioning the dismissal from service husband of the petitioner made a representation to the Commissioner of School Education, West Bengal, on 14th July, 2011 and ultimately pursuant to the order passed by a co-ordinate Bench on 17th December, 2012 passed in WPA 19456 of 2012 the Commissioner of School Education, West Bengal,

passed an order vide memo dated 25th November, 2013. On perusal of such memo dated 25th November, 2013 it appears that sympathetically the Commissioner of School Education, West Bengal, in stead of the punishment of dismissal from service directed to impose lesser punishment of deducting three annual increments from the last pay of the petitioner, while calculating the retiral benefits considering the date of superannuation of the petitioner's husband on 31st December, 2008.

Pursuant to such order of the Commissioner of School Education, West Bengal, pension payment order was issued in favaour of the petitioner on 3rd June, 2014. Thereafter husband of the petitioner died on 20th February, 2019.

The present writ petition has been preferred by the wife of the deceased retired teacher claiming payment of arrear dues for the period from 1st April, 2008 to 31st December, 2008 which was accrued due to lifting of order of dismissal in connection with the service of the husband of the petitioner vide memo dated 25th November, 2013 of the Commissioner of School Education as well as interest on the said arrear dues.

On behalf of the State respondents it has been submitted that apart from issuance of pension

payment order in favour of the husband of the petitioner vide memo dated 3rd June, 2014 the arrear amount accrued due to the decision of the Commissioner of School Education has also been released in favour of the petitioner during pendency of this present writ petition on 15th September, 2021.

Petitioner claims interest on such arrear dues due to delay in releasing the said amount in her favour. In the writ petition petitioner being the wife of deceased teacher has prayed for release of arrear dues along with interest and on payment of said arrear dues on 15th September, 2021 the main grievance of the petitioner appears to have been redressed.

Question arises whether petitioner is entitled to receive interest since it has been alleged that there is delay in releasing the arrear dues.

Petitioner was not the teacher rather her husband was the assistant teacher who was dismissed from service by the school authority upon issuing charge-sheet dated 31st October, 2008. Ultimately, on making representation the Commissioner of School Education, West Bengal, sympathetically reduced the punishment from dismissal to deduction of three incremental benefits

from the last pay of the petitioner. Such decision of the Commissioner of School Education dated 25th November, 2013 resulted in accrual of arrear dues in favour of the husband of the petitioner. Husband of the petitioner did not approach this Court during his lifetime for interest on the said arrear dues and who died on 20th February, 2019.

It appears that the concerned District Inspector of Schools (SE), Burdwan, re-submitted the arrear claim of the husband of the petitioner after compliance of formalities by the school authority with regard to the observations made by the Joint Director of Accounts (SE), Burdwan, vide memo dated 6th February, 2017, before the said Joint Director of Accounts. The memo of the concerned District Inspector of Schools dated 6th February, 2017 also goes to show that the Joint Director of Accounts made certain observations vide memo dated 31st August, 2016 based on the bills submitted by the school authority relating to the arrear dues accrued in favour of the husband of the petitioner.

In view of aforesaid facts it appears that the delay caused in releasing arrear dues in favour of the petitioner was not solely attributable to the State respondents rather the release of arrear

amount depended upon compliance of formalities by the school authority pursuant to the memo issued by the Joint Director of Accounts dated 31st August, 2016. Therefore, the claim of interest on arrear dues of the petitioner as prayed for in this writ petition is refused. It is recorded herein that the principal amount (arrear dues) has already been released in favour of the petitioner and petitioner is also in receipt of family pension due to death of her husband who was an assistant teacher of the aforementioned school.

Accordingly, the writ petition stands disposed of. There shall be no order as to costs.

The report in the form of an affidavit filed on behalf of State respondents is also taken on record.

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

(Saugata Bhattacharyya, J.)