

Court No. 22
08.9.2022
(Item No. 49)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 5446 of 2021

Sri Deepak Mahali
VS
The State of West Bengal & Ors.

Mr. Satyajit Mandal
Mr. Srikumar Mandal
..... for the petitioner

Mr. Arindam Chattopadhyay
..... for the State

Affidavit of service filed in Court today, is taken on record.

The petitioner claims to be an **Assistant Teacher** in the Science stream at **Karnabad Uchcha Vidyalaya**. The petitioner was appointed on October 21, 1995. The approval for such appointment was with effect from October 27, 1995 issued by the relevant State authority. Arising out of a criminal offence a criminal case was started when the petitioner was arrested on January 29, 1996. The petitioner was then released on bail.

Previously a writ petition was moved by the petitioner seeking necessary direction upon the School Authority to allow him to join in his employment. A co-ordinate Bench of this Court by an order dated June 24, 1999 directed the District Inspector of Schools, 24Pgs. (South) to consider the prayer of the petitioner and then dispose of the same with a reasoned order. On June 28, 2003 when the

petitioner went to join the school pursuant to the direction of the District Inspector of Schools he was again arrested.

The petitioner claims that the School Authority did not pay the salary of the petitioner for which several representations were made by the petitioner, went into vein.

Mr. Arindam Chattopadhyay, learned State counsel submits that, the petitioner had suffered repeated criminal complaint and arrest. According to him, no salary or any monetary claim on account of salary was due and payable by the School Authority to the petitioner as he was under the deemed suspension because of his repeated arrest and being detained in the custody.

He further submits that from the record it appears a criminal revision was also filed by the petitioner which was disposed of by this Court by an order dated November 11, 2002 passed in CRR 3423 of 2001.

Considering the submissions made on behalf of the appearing parties and on perusal of the materials on record, this Court is of the considered view that, several factual aspects and its implications by application of the relevant provisions and service conditions need to be gone into.

In view of the above, this Court is of the considered view that, justice would be sub-served if claim of the petitioner can be addressed by the appropriate respondent authority first after giving an opportunity of hearing to the petitioner and then come to its reasonable conclusion with a reasoned order/decision. Annexure P-6 to the writ petition is a representation made by the petitioner dated October 14, 2020.

In view of the above, the petitioner shall be at liberty to submit a comprehensive representation before the respondent No. 3 on or before September 30, 2022.

In the event, such a representation is submitted by the petitioner, the respondent No. 3 upon giving at least seven days prior hearing notice to the petitioner and the respondent No. 5 and or the relevant School Authority and after granting them an opportunity of hearing shall decide the representation by passing a reasoned decision/order strictly in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent No. 3 within a period of eight weeks from the date of submission of the said comprehensive representation by the petitioner. The respondent No. 3 shall then communicate his reasoned decision/order to the petitioner and the respondent No. 5 and or the School

Authority within a further period of two weeks from the date of the said reasoned decision/order to be passed. The School Authority may be represented before the respondent No. 3 through an authorized representative.

It is made clear that, this Court has not gone into the merit of this writ petition. All points are kept open for the parties to argue before the respondent No. 3.

Since affidavits are not called for the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition being **WPA 5446 of 2021** stands disposed of.

There shall, however, be no order as to costs.

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

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(Aniruddha Roy, J.)