

Court No. 24
20.04.2022
(Item No. 89)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 5173 of 2022

Sutapa Bag
VS
The State of West Bengal & Ors.

Ms. Debjani Sengupta
Mrs. Shahina Haque
Mr. Abhijit Chatterjee
..... for the petitioner
Mr. Avishek Prasad
..... for the State

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

The petitioner's prayer for drawing House Rent Allowance was turned down by the Additional Secretary, Minority Affairs and Madrasah Education Department by a communicating Memo dated 18th January, 2021. The said communicating order is impugned in the present writ petition.

The prayer of the petitioner was turned down particularly relying upon Memorandum No. 5563F dated 25th September, 2019 read with Memorandum No. 5839-F(P) dated 19th July, 2012 and its corrigendum No. 8012-F(P2) dated 27th December, 2018.

It appears that the aforesaid Memoranda fell for consideration before a coordinate Bench of this Court and the Court by judgment dated 16th March, 2021 passed in WPA 1389 of 2018 (Mousumi Biswas & anr.

Vs. State of West Bengal & Ors.) was pleased to hold that the impugned clarificatory corrigendum No. 8012-F(P2) dated 27th December, 2018 could not have risen above its source and was accordingly set aside.

The Court was further pleased to hold that the Finance Department Memo No. 5389-F(P) dated July 9, 2012 is applicable in the matter of grant for H.R.A. to a State Government employee. It is inapplicable to the category of employees employed in non-government sponsored institutions, who are governed by ROPA Memorandum of 2009 for Non-Governmental Educational Institutions issued by Memo No. 46-SE(B) dated February 27, 2009.

Learned advocate for the petitioner contends that the petitioner is a Teacher of a High Madrasah and her husband is employed in a private organization. The petitioner is presently posted at Malda and her husband is posted in Kolkata. Both of them stay separately and accordingly the petitioner and her husband both are entitled to separate House Rent Allowance from their employers.

As it appears that the issue in question has already been decided by a coordinate Bench of this Court in the matter of Mousumi Biswas & anr. (Supra) accordingly the present writ petition is disposed of in the same lines.

The impugned communication dated 18th January, 2021 is accordingly set aside.

The matter is remanded back to the respondent No. 2, the Additional Secretary, Minority Affairs & Madrasah Education Department to reconsider the prayer of the petitioner for grant of House Rent Allowance in the light of the judgment delivered in the matter of Mousumi Biswas and Anr. (supra) within a period of eight weeks from the date of communication of a copy of this order.

The aforesaid respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

If required, the said respondent may afford an opportunity of hearing to the petitioner to place relevant documents in support of her claim that she and her husband both reside at different places and are employed by different employers.

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.)