

Item No.06
Ct. No.24
11.04.2022
TN

WPA No. 4832 of 2020

Sri Dilip Kumar Khamaru
Vs.
The State of West Bengal and others

Mr. Tara Prasad Haldar

.... for the petitioner

Affidavit-of-service filed in court be taken on record.

None appears on behalf of the respondents, despite service.

The petitioner is aggrieved by the order passed by the Commissioner, School Education, West Bengal, communicated to the petitioner vide Memo No.IC/25/LP/2019 dated 9th August, 2019, whereby the Commissioner was of the opinion that he does not have the authority to grant pensionary benefit to the petitioner, as prayed for. The said order was passed by the Commissioner allegedly in compliance of the direction passed by this Court on 26th February, 2019 in W.P. No.2289 (W) of 2019.

By the impugned order, the Commissioner disposed of the matter by holding that the

Commissioner is not the competent authority as per provision of Rule 9 of the West Bengal Non-Government Educational Institutions Employees (Death-cum-Retirement Benefits) Audit Rules, 2015.

It has been mentioned in the impugned order that the petitioner could not complete ten years of continuous service and accordingly, he was not eligible to get pension as per paragraph-8 of the Death cum Retirement Benefit (D.C.R.B.) Scheme, 1981.

Rule 9 of the Audit Rules, 2015 has been placed before this Court. It appears therefrom that the Pension Sanctioning Authority may, in special circumstances, grant sanction of a Pension Case which may not be in accordance with the D.C.R.B. Scheme subject to the conditions that the same shall be sanctioned, after obtaining approval of the concerned Department.

The Pension Sanctioning Authority, that is, the District Inspector of Schools without taking an independent decision merely forwarded the matter to the Commissioner of School Education for approval of pensionary benefit to the petitioner with effect from 4th November, 1999.

As the D.I. already forwarded the prayer of the petitioner for grant of pension, accordingly, the Principal Secretary of the School Education

Department is directed to take a decision in the matter with regard to grant of pension in favour of the petitioner in accordance with the provisions of the West Bengal Non-Government Educational Institution, Local Authorities and other Institutions Employees (Death-cum-Retirement Benefit) Audit Rules, 2015.

A decision shall be taken in the matter by the Principal Secretary at the earliest, positively within a period of sixty days from the date of communication of this order. The Principal Secretary shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The aforesaid respondent, if required, may grant an opportunity of hearing to the petitioner prior to taking a decision in the matter.

The petitioner is directed to forward a copy of the communication of the D.I. of Schools, Primary Education, South 24 Parganas dated 11th December, 2017 and a copy of the impugned order dated 9th August, 2019 to the aforesaid respondent at the time of communicating the order of this Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)