

Court No. 17

WPA 7706 of 2022

29.11.2022

Upendra Nath Ekka

(AD 76)

Vs.

The State of West Bengal & Ors.

(S. Banerjee)

Mr. Sakti Pada Jana

Mr. Subhajyoti Das

... for the petitioner

Mr. Swapan Kumar Pal

Mr. Minal Kumar Maity

... for the State

The petitioner has prayed for arrear pension and in this matter I directed the concerned respondent, being the District Inspector of Schools, to file a report.

In the report it is found that one review application, being RVWO No. 5 of 2022, in connection with the judgement and order passed in APO 121 of 2007 which arose out of WP No. 1528 of 2002, has been filed. The State-respondents have submitted that against this Special Bench judgement they moved the Hon'ble Supreme Court but the SLP has been dismissed. However, from a copy of the order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No(s). 1398 of 2020 it appears that the Hon'ble Supreme Court held –

“We are not inclined to interfere with the impugned judgment passed by the High Court. Special Leave Petitions are dismissed.”

From the said order it appears that this is not a plain and simple dismissal of SLP. The Hon'ble Supreme Court has categorically stated that it is not inclined to interfere with the impugned judgement passed by the High Court. Therefore, the SLP was dismissed on merit as it was not a plain and simple dismissal of SLP.

Therefore, I do not know under what provision of law such a review application could be filed after dismissal of the SLP as the Hon'ble Supreme Court was not inclined to interfere with the impugned judgement passed by the High Court. I am told that the review application has been filed with one condonation of delay application. Such review application has not been moved till date and it is an application with delay.

Therefore, under the law there is no existence of the review application unless the application for condonation of delay is allowed. In any event, I have serious doubt whether such a review application after dismissal of SLP can be filed and I hold that such a review application, after dismissal of SLP on merit as stated above, cannot be filed. This is only an endeavor to delay the matter.

Therefore, I do not accept the contention of the State-respondents that one review application is pending from the appeal court's order as has been stated above.

The order passed by the Special Bench of this court in APO No. 121 of 2007 arising out of WP No. 1528 of 2002 (Md. Abdul Ghani –Vs.- State of West Bengal & Ors.) and a copy of the order passed by the Hon'ble Supreme Court have been produced before me and such orders are kept on record.

Hence, the report filed by the District Inspector of Schools (PE), Uttar Dinajpur in WPA No. 7706 of 2022 is held as of no merit.

Therefore, this writ application is allowed.

Learned advocate for the State has submitted that in respect of interest he wants to make submission when **learned advocate for the petitioner, Mr. Jana, has submitted that his client is not praying for any interest on the arrear pension.**

Considering such submissions of the parties, I direct the respondent nos. 3, 4 and 5 to pay the arrear of pension for the period, as has been prayed for in prayer (a) of the writ application, after verification of such particulars for the period and to pay the arrear pension within a pension of six months from date.

(Abhijit Gangopadhyay, J.)