

22.08.2022
Court No.13
Item No.21
AP

WPA 9320 of 2019

**Arabinda Adhikari
Vs.
State of West Bengal and Ors.**

Mr. Arup Kumar Lahiri
Mr. Udayan Dutta

... For the Petitioner.

Ms. Chaitali Bhattacharyya
Mr. Mrinal Kanti Ghosh

... For the State.

The District Inspector of Schools (SE), Paschim Medinipur has filed a report.

It appears from the records that the District Inspector of Schools (SE), Paschim Medinipur had received an objection from the Deputy Director of Accounts (SE), Paschim Medinipur dated 9th July 2018 that the petitioner has enjoyed career advancement benefit of 18 years within the period between 2nd January 2012 to 30th June 2012, despite whereof, the annual increment for the year 2012 was allowed. The writ petitioner retired on 30th June 2018.

Counsel for the petitioner has rightly relied upon a decision of the Supreme Court in the case of **Thomas Daniel Vs. State of Kerala and Ors.** reported in **AIR 2022 SC 2153**, in this regard.

Applying the dictum of the said decision laid down in paragraphs 9, 14 and 15, this Court notes that the additional increment given to the petitioner was not on account of any misrepresentation or fraud by the

petitioner. The same has occurred due to an error committed by the respondents. Recovery of such amount from the petitioner's terminal benefits, therefore, cannot be effected.

The order directing any recovery of any amount from the petitioner's terminal benefit towards alleged illegal incremental benefit on 1st July 2012 shall stand quashed and set aside.

The last drawn salary of the petitioner and his service book may, however, be recast by notionally reversing the incremental benefit without any refund. The pension payable to the petitioner shall be recalculated upon such recasting of service book as directed hereinabove.

Let the aforesaid exercise be completed by the School as well as the office of the District Inspector of Schools (SE), Paschim Medinipur mandatorily and positively and without fail within a period of one month from date.

The pension shall be paid to the petitioner, after recasting his salary and emoluments as above. A revised Last Pay Certificate shall be prepared and pension shall be allowed only in terms of the revised Last Pay Certificate.

The pension and all other terminal benefits i.e. gratuity and leave encashment shall be released to the petitioner after deducting any amount already paid to

the petitioner within a period of one month from date after the PPO is issued as directed hereinabove.

The head of the institution of the school shall be personally responsible for carrying out the aforesaid order along with the District Inspector of Schools (SE), Paschim Medinipur.

The petitioner shall serve a copy of this order to the head of the institution.

The District Inspector of Schools (SE), Paschim Medinipur and the head of the institution may produce relevant records that may be cross-checked by themselves. Records shall be made available by the School to the Office of the District Inspector of Schools (SE), Paschim Medinipur.

With the aforesaid observation, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)