

Court No. 22
22.9.2022
(Item No. 14)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 12711 of 2022

Nitai Chandra Dhara
VS
The State of West Bengal & Ors.

Mr. Ramdulal Manna
Mr. Sabyasachi Mondal
Mr. Sayan Mukherjee
..... for the petitioner

Mr. Jahar Dutta
Mr. Bipin Ghosh
..... for the State

Mr. P. S. Dev Barman
Mr. Santi Das Adhikari
Ms. Debangana Dey Nayak
.... For private respondent No. 9

The writ petitioner claims arrears on salary from September 2009 till March 31, 2016. Service benefits upon completion of 20 years of service with effect from December 3, 2006 and benefits of **ROPA 2019** with effect from January 1, 2016 along with other terminal benefits are the claims of the petitioner.

The petitioner was an **Assistant Teacher** at **Raghunathbari R. T. High School (H.S.)** since December 1986, though there are no documents to this effect. On March 23, 2005 the petitioner claims that he was appointed as **Headmaster** of the **Kaminachak Sashibhusan Kanailal Vidyayatan** by the School Service Commission. He went on leave prior to September 2009. The petitioner was accused

of financial irregularities at the Kaminachak Sashibhusan Kanailal Vidyayatan.

The petitioner was then appointed as Headmaster at **Mahammadpur Deshapran Vidyapith (H.S.), District Purba Medinipur.**

In this writ petition the petitioner seeks release of his arrears salary bills for the period September 9, 2009 to March 31, 2016. In terms of fixation made under ROPA 2019.

Mr. Ramdulal Manna, learned advocate appears for the petitioner submitted that, his client had retired on March 31, 2016 and had fallen sick very seriously and his client needed this money badly for his treatment and for his livelihood and also for sustenance.

Mr. P. S. Dev Barman, learned advocate appears for the respondent No. 9 submitted that, at the relevant point of time there were allegations against the petitioner attracting criminal consequences. A General Diary was also entered into before the jurisdictional Police Station.

Mr. Dev Barman further submitted that, petitioner had submitted in 2022 his last pay certificate and necessary release order issued by Kaminachak Sashibhusan Kanailal Vidyayatan. The respondent No. 9 had already forwarded the same to the respondent No. 5.

Mr. Jahar Dutta, learned State counsel in his usual fairness submitted that, the case of the petitioner may be considered by the appropriate authority namely respondent No. 2, of course, strictly in accordance with law.

Affidavits had already been exchanged in this matter pursuant to the direction of this Court.

Considering the submissions made on behalf of the appearing parties and considering the materials on record, it appears to this Court that, several factual matrix have to be gone into to consider the issue raised by the petitioner and as to his eligibility thereto. Several records of the State employer may need to be looked into to ascertain the eligibility of the petitioner on facts. This is certainly not the job of a writ Court. The Writ Court in exercise of its high prerogative writ jurisdiction, as a self imposed restriction, should avoid to go into such fact finding enquiry in detail. In fact, there is no decision on the issue raised by the petitioner before this Court, so that this Court in exercise of its power in judicial review can assess any such decision or decision making process thereon with its limited jurisdiction.

In the premises on the over all assessment of the issues involved in the writ petition, this Court is of the considered opinion that, justice can be sub served if the respondent No. 2 is directed to consider the issue raised by the writ petitioner in detail upon

appreciating all the materials to be placed before it, both by the petitioner and the respondent Nos. 8 and 9 and also by the School Authority of Kaminachak Sashibhusan Kanailal Vidyayatan.

The petitioner shall be at liberty to make a comprehensive representation before the respondent No. 2 on or before November 11, 2022.

In the event, such representation is submitted, the respondent No. 2, shall issue a prior hearing notice of at least seven days to the petitioner, respondent Nos. 8 and 9 and the School committee of the Managing Committee of the Kaminachak Sashibhusan Kanailal Vidyayatan and/or any such other parties whose presence, the respondent No. 2 will be felt necessary. The respondent No. 2 shall give an opportunity of hearing to the petitioner, respondent Nos. 8 and 9 and the School Committee or the Managing Committee of the Kaminachak Sashibhusan Kanailal Vidyayatan and such other party and then shall pass its reasoned decision/order on the said representation of the petitioner.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 2 within a period of eight weeks from the date of submission of the comprehensive representation by the petitioner as directed above. The respondent No. 2 then shall communicate its reasoned order to the petitioner and to all the parties who shall be present

during the hearing before it, within a further period of two weeks from the date of the said reasoned decision/order to be passed.

In the event, the reasoned order goes in favour of the petitioner, then the said School Authority/ Management of the Kaminachak Sashibhusan Kanailal Vidyayatan and the respondent Nos. 8 and 9 shall take all necessary steps to give effect to the said reasoned order positively and release the benefits in terms thereof to the petitioner through the concerned authority positively within a further period of six weeks from the date of communication of the said reasoned order to them.

It is made clear that, this Court has not gone into the merit of the claim of the petitioner in any manner. All points are kept open for all the parties who will participate in the hearing before the respondent No. 2. It is needless to mention that, the said School Committee/ Management of Kaminachak Sashibhusan Kanailal Vidyayatan and the respondent Nos. 8 and 9 may be represented through their authorized representatives during the said hearing before the respondent No. 2.

On the above terms, this writ petition being **WPA 12711 of 2022** 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.

(Aniruddha Roy, J.)