

Court No. 17

WPA 17740 of 2021

01.03.2022

(AD 5)

(S. Banerjee)

Dr. Nitya Gopal Barman

Vs.

The State of West Bengal & Ors.

(Via Video Conference)

Mr. Ekramul Bari

Ms. Tanuja Basak

Sk. Intiaj Uddin

... for the petitioner

Mr. Supriyo Chattopadhyay

Ms. Iti Dutta

... for the State

Let the affidavit of service filed in court today be kept with the record.

The petitioner retired from the post of Headmaster on 31st March, 2020. The grievance of the petitioner is that while the question of payment of pension arose, an objection has been raised by the Directorate of Pension Provident Fund and Group Insurance which is as follows:

“1. In clarification granting Addl. 2 increment to teachers having Ph.D degree as per Rule 16 of ROPA 98 GO 37-SE dt 05.01.2012 issued As per Para 2 of GO 37-SE/ES(S) dated 05.01.2012 Addl 2 (Two) increments provided to those teachers on acquisition of Ph.D. Degree having base qualification of Honours degree on relevant subject.

But in this case it is observed that incumbent completed Graduation in Pass course Hence, he does not fulfill the criteria 2 Mention about refund of CPF”

(sic.)

Learned advocate for the petitioner has vehemently objected to such observation on the ground that the provision, being the second paragraph of 37-

SE/ES(S) dated 5th January, 2012 does not have any retrospective effect, it is operative from 5th January, 2012 and not before that and, therefore, the petitioner who obtained his Ph.D degree and whose approval of appointment as Headmaster (at page 20 of the writ application) clearly mentions Dr. Nitya Gopal Barman having qualification M.A., B.Ed., Ph.D, which was approved from 11th July, 2001 would be hit by the second paragraph of the said memo dated 5th January, 2012.

I find that such submission of the learned advocate for the petitioner has some substance and merit in it.

The observation, as appears from page 26 (Annexure P-4) at the bottom regarding the qualification is quashed and set aside.

Therefore, I direct the Director of Pension, Provident Fund and Group Insurance to revisit the matter on the basis of the observations made by this court and the Government Order, being 37-SE/ES(S) dated 5th January, 2012, within a period of three weeks after giving an opportunity of hearing to the petitioner and to pass a reasoned order by two weeks thereafter.

It if is found that the decision of the Director goes in favour of the petitioner, the department under the Directorate of Pension Provident Fund and Group Insurance will proceed to take further steps for granting pension etc. to the petitioner, considering that he has adequate qualification for getting two increments.

With the observation and direction, this writ application is disposed of.

(Abhijit Gangopadhyay, J.)