

06. 26.07.2022
BD Ct.15

WPA 17300 of 2018

with
IA CAN 1 of 2021

Debashish Barman

-vs-

The State of West Bengal & Ors.

Syed Mansur Ali

... for the Petitioner.

Mr. Swappan Kumar Dutta

Ms. Debjani Mitra

... for the State.

Mr. Dipajan Dutta

Mr. Sayan Dutta

... for the respondent nos. 6 & 7.

Mr. Nilotpall Chatterjee

Mr. Satyaki Banerjee

... for the University of Calcutta.

Matter relates to release of arrear dues in favour of the petitioner who was appointed as a member of teaching faculty in Ananda Mohan College on 3rd February, 2017 and worked there up to 17th April, 2019. Subsequently, petitioner had to be accommodated in Sir Gurudas Mahavidyalaya since in Ananda Mohan College there was no post against which petitioner could have been retained as a member of the teaching faculty. However, the concerned authority upon creation of supernumerary post accommodated the petitioner

for the aforesaid period for the purpose of sanctioning and release of service benefits including salary. Prayer has been made by the petitioner for refixation of his pay in Sir Gurudas Mahavidyalaya as a member of the teaching faculty taking into account his past service which he rendered in Ananda Mohan College for the period from 3rd February, 2017 till 17th April, 2019.

Mr. Dipanjan Dutta, learned advocate, representing Ananda Mohan College on instruction has submitted that the arrear dues payable to the petitioner has already been sanctioned by the Joint Director of Public Instruction and accordingly the said amount has been released in favour of the petitioner therefore the petitioner ought not have any grievance with regard to release of arrear dues.

In view of the submissions made on behalf of the respondent nos. 6 and 7 it appears that grievance of the petitioner relating to non-payment of arrear salary for the period from 3rd February, 2017 till 17th April, 2019 has been redressed during the pendency of this writ petition.

Only issue which is left and needs to be considered is whether the petitioner is entitled to get pay protection in view of past service which he rendered in Ananda Mohan College. Since on

approval of service rendered by the petitioner in said Ananda Mohan College benefits have been given this Court finds that his past service should have been reckoned at the time of fixation of his pay in the second college namely Sir Gurudas Mahavidyalaya.

Accordingly, the Director of Public Instruction, Government of West Bengal, is directed to refix the pay of the petitioner in Sir Gurudas Mahavidyalaya taking into consideration his past service in Ananda Mohan College and pass necessary decision within a period of eight weeks from the date of communication of this order. Such decision to be taken by the Director of Public Instruction will be communicated to the petitioner and the College authority of Sir Gurudas Mahavidyalaya within a period of one week thereafter. The above exercise relating to refixation of pay of the petitioner is required to be carried out by the Director of Public Instruction, if in the meantime, steps have not been taken by the Director of Public Instruction for refixation of pay of the petitioner.

With the aforesaid direction and observation the writ petition stands disposed of.

However, there shall be no order as to

costs.

The Memo dated 21st March, 2022 issued by the Joint Director of Public Instruction (Pay Packet), sanctioning the arrear dues in favour of the petitioner is taken on record.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)