

Court No. 24
08.02.2022
(Item No. 4)
(AB)

W.P.A. 20875 of 2021
(via video conference)

Parul Dinda
VS
The State of West Bengal & Ors.

Mr. Biswarup Biswas
Mr. Kamal Mishra
Mr. Abhijit Basu
..... for the petitioner
Mr. Lalit Mohan Mahata
Mr. Ziaul Haque
..... for the State
Mr. Sarwar Jahan
Ms. Mausumi Mitra
..... for respondent Nos. 12 & 13

The petitioner was engaged as Sahayika of a Shishu Shiksha Kendra on 3rd May, 2000. She rendered service till 29th October, 2014.

By a communication dated 29th October, 2014 she was relieved from the service of Head Sahayika and her honourarium as Head Sahayika stood suspended. On and from November, 2014 she was not permitted to sign the attendance register.

The petitioner approached this Court by filing a writ petition being WP No. 34353 (W) of 2014 which stood disposed of by an order of the Court on 21st August, 2019.

The Court directed the respondents to consider the representation of the petitioner considering her age of superannuation honourably without the stigma of misappropriation, if they so desire, if she has not retired in terms of the circular in force.

The petitioner communicated the order of the Court to the concerned authority in due time. No step was taken by

the respondents to act in accordance with the direction passed by the Court.

The petitioner has attained her age of superannuation and prays for releasing her terminal benefits.

By Memorandum No. 2217-PN/O/I/O-1/2003 (Policy) dated 23rd April, 2010 issued by the Department of Panchayat and Rural Development the service condition of Sahayaks/Sahayikas of Shishu Shiksha Kendras was revised. It was decided that after cessation of engagement at the age prevailing an amount of rupees one lakh will be paid, the modality of which will be worked out shortly.

Modality regarding payment of the cessation benefits of Sahayikas/Sahayaks by the Department of Panchayat and Rural Development was settled on 29th February, 2016. The Government decided, as a matter of policy, that Rs.1,00,000/- (rupees one lakh) may be paid as terminal benefit and the age of termination may be 60 years. The employee should have served at least 10 years continuously on the date of termination on attaining the age of 60 years. The Scheme was made effective from November, 2013.

The terminal benefit on cessation of Rs.1,00,000/- (rupees one lakh) was thereafter enhanced by a memorandum dated 12th February, 2021 issued by the School Education Department and the same was applicable for the Sahayaks/Sahayikas. The order was effective from 1st February, 2021 and the same was issued in concurrence with the Finance Department of the State.

The petitioner attained 65 years of age on 30th September, 2021.

Admittedly, no disciplinary proceeding was initiated against the petitioner. Presently, the petitioner prays for a direction upon the respondent authorities to pay the terminal benefit on cessation of Rs. 3,00,000/- (rupees three lakh) to her in terms of the policy of the State Government.

The Executive Officer of the Namkhana Panchayat Samity submitted a report before this Court.

It appears therefrom that a resolution was adopted in the meeting of the Shiksha-Sanskriti-Tathya O Krira Sthayee Samity of Namkhana Panchayat Samity on 25th February, 2021 to reinstate the petitioner as Mukhya Sahayika of the Shishu Shiksha Kendra. The Executive Officer forwarded the resolution of the meeting to the Additional District Magistrate and Additional Executive Officer of the Zilla Parishad for taking necessary action. No formal order was however passed by the concerned officer reinstating the petitioner as Mukhya Sahayika of the Shishu Shiksha Kendra. In the meantime the petitioner attained 65 years of age.

It is an admitted fact that the petitioner rendered service on and from her first date of joining on 3rd May, 2000 and she was in service till 29th October, 2014 i.e. for a period of 14 years and six months.

It is not in dispute that she already exceeded 10 years of continuous service and accordingly she will be entitled to

the terminal benefit on cessation @ Rs.1,00,000/-. As the cessation fee stood enhanced during the period when the petitioner was in service she claims that the enhanced amount of Rs.3,00,000/- be paid to her.

It appears that a decision was taken to reinstate the petitioner prior to her date of retirement. Had the Zilla Parishad taken prompt steps to act pursuant to the resolution adopted by the Panchayat Samity, then the petitioner may have been permitted to continue her service prior to attaining her normal age of superannuation and she would have certainly been entitled to receive the enhanced amount as terminal benefit on cessation of service.

There has been a delay on the part of the Additional District Magistrate and the Additional Executive Officer of the Zilla Parishad to take necessary action in the matter in proper time, accordingly, at this stage, the Court is of the opinion that the petitioner being entitled be paid Rs.1,00,000/- (rupees one lakh) as terminal benefit on cessation of service on completion of more than 10 years of continuous service.

The payment of Rs.1,00,000/- (rupees one lakh) be released in favour of the petitioner at the earliest but positively within a period of ten weeks from the date of communication of this order.

As regards the prayer of the petitioner for payment of the enhanced amount of Rs.3,00,000/- (rupees three lakh) leave is granted to the petitioner to make representation before the Additional District Magistrate and Additional

Executive Officer, South 24 Parganas Zilla Parishad to consider her prayer for payment of the additional sum of Rs.2,00,000/- (rupees two lakh) as terminal benefit taking into account the period of service from 2000 till her age of superannuation on 30th September, 2021.

The Additional District Magistrate and Additional Executive Officer shall consider the representation of the petitioner in accordance with the various memoranda issued by the State Government in respect of Sahayaks/Sahayikas from time to time, at the earliest, but positively within a period of ten weeks from the date of receipt of the representation of the petitioner.

In the event, the said respondent is of the opinion that the petitioner is entitled to receive the additional sum of Rs.2,00,000/- (rupees two lakh) over and above the sum of Rs. 1,00,000/- (rupees one lakh) to be paid to her, then necessary consequential steps would be taken by the said respondent for releasing payment in favour of the petitioner immediately thereafter.

The petitioner is directed to forward a copy of all the memoranda relied upon by her along with other supporting documents to the aforesaid respondent for the purpose of obtaining the enhanced terminal benefit at the time of making the representation.

The Executive Officer, Namkhana Panchayet Samity is directed to follow up the matter with the Additional District Magistrate and Additional Executive Officer, South 24

Parganas Zilla Parishad for compliance of the direction passed hereinabove.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)