

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :-

Hon'ble Justice Partha Sarathi Sen

W.P.A. No. 21468 (W) of 2019

Suniti Kundu

-Versus-

The State of West Bengal & Ors.

For the Petitioner	: Mr. Tapas Kr. Sinha, Adv.
	: Mr. Subir Sabud, Adv.
	: Mr. Sabyasachi Mondal, Adv
For the respondent	: Mr. Pinaki Dhole, Adv
	: Mr. Avishek Prosad, Adv.

Heard on: : **11.11.2022**

Judgment on. : **14.11.2022**

PARTHA SARATHI SEN, J. : –

1. By filing the instant application under Article 226 of the Constitution of India it has been contended by the writ petitioner that on 02.01.1981, she was appointed in the respondent no.7's school as a 'metron' and the appointment of the petitioner was approved by the respondent no.3/ authority under cover of its Memo No.3421-S dated 28.06.1982. It is contended further that at the time of regularization of service book on account of her scheduled retirement on 30.09.2019, the teacher-in-charge of the respondent no.7's school sought for verification of the transfer certificate of the writ petitioner and finding some minor discrepancies in such certificate, the respondent no. 3/authority under cover of his office memo dated 14.02.2019, stopped salary of the present writ

petitioner which is the subject matter of challenge in the instant writ petition. In support of his contention learned advocate for the writ petitioner draws attention of this Court to the impugned office memo dated 14.02.2019. Attention of this Court is also drawn to Rule 28(8a) of the Management Rules Part III i.e. the Management of Recognised Non-Government Institutions (Aided and Unaided), 1969. It is contended that in the aforesaid impugned memo dated 14.02.2019, the respondent no.3 relied upon memo no.74-MN dated 14.10.2018, as issued by respondent no.5/authority wherefrom it reveals that respondent no.5 himself was not sure as to whether the transfer certificate as submitted by the petitioner is fake or genuine. It is contended further that in view of Rule 28(8)(a) of the aforesaid Rules, no punishment can be imposed by the respondent no.3/authority without initiating and concluding a disciplinary proceeding. Learned advocate for the writ petitioner thus requests this Court to quash the impugned office memo dated 14.02.2019, as issued by the respondent no.3/authority with a further request to ask the respondent to release all dues of the petitioner.

2. While opposing the contention of the writ petitioner, learned advocate for the respondents/State draws attention of this Court to the Memo No.775-MM dated 24.09.2018, as has been annexed with the mark R3 and the letter dated 25.09.2018, as issued by the Head Master of the respondent no.6's school being annexure R4 to the affidavit-in-opposition. It is argued that from the aforesaid two documents, it is crystal clear that the petitioner has committed forgery in respect of her educational qualification certificate which she herself admitted by issuing a letter dated 18.02.2019, which has been annexed with

affidavit-in-opposition with the mark R7. It is thus contended that since the very entry of the present petitioner in service is illegal, the prayer of the petitioner to cancel and/or rescind the office memo dated 14.02.2019, ought not to have been entertained.

3. On perusal of the entire materials as placed before this Court and after hearing learned advocates of both the sides, it appears to this Court that at the time of entry in service, the present petitioner relied upon a transfer certification i.e. her educational certificate and on the basis of which, her service approval was given under Memo. No. 3421-S dated 28.06.1982.

4. Sufficient materials have been placed before this Court to substantiate, at least prima facie, that the said document is a fake one which the present petitioner admitted under cover of her letter dated 18.02.2019 to the respondent no.3. Since sufficient materials have been placed to substantiate that the present petitioner took entry in her service on the basis of a fake document, at least prima facie, this Court must not ask the respondents to release salary of the petitioner as prayed for.

5. This Court thus, finds no merit in the instant application and thus the instant writ petition is dismissed.

6. It is however, made clear that the observation as made hereinabove with regard to the genuineness of the aforesaid office memo dated 14.02.2019, shall not be used by any parties of the instant proceeding as a precedent in any subsequent judicial or quasi-judicial proceedings and the same is purely limited for the purpose of disposal of the instant writ petition.

7. All connected applications, if any, stands disposed.

8. Urgent Photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

(Partha Sarathi Sen, J.)