

30-11-2022
Item No.8
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.26212 of 2022
Latika Ghosh & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Bidhan Biswas
Mr. Tapas Chatterjee ...for the petitioners

Ms. Chaitali Bhattacharya
Mr. Kartik Chandra Kapas ...for the State

Md. Sarwar Jahan
Ms. Mousumi Mitra ...for respondent no.4

The petitioners were engaged as Sahayika under the Sishu Shiksha Karmasuchi in their respective Sishu Siksha Kendras and the age of superannuation of that post is 65 years. Since April 1, 2020 all the Sishu Siksha Kendras have been brought under the control of the School Education Department, Government of West Bengal and thereby the Sahayikas who were within 60 years of age prior to April 1, 2020 were permitted to get the status at par with the para-teachers by extending the benefits available for the para-teachers, if they exercised option as per the requisite formal within February 1, 2020. The service benefits available to the para-teachers were more lucrative in comparison with the post of Sahayikas as no benefit of employees provident fund scheme was available to Sahayikas. Under such circumstances, the petitioners exercised their option to get the status and benefits at par with the para-teachers. But since 2020 no amount has been deducted from their pay packet on account of the employees provident fund nor any contribution has been made by the Government towards the said provident fund

scheme. Owing to exercise of such option, the petitioners have been forced to retire at the age of 60 years of age. As such, they seek a direction so that they may maintain their status as Sahayika or revert back to the post of Sahayika from the status at par with para-teachers and they may be allowed to continue their service up to the age of 65 years.

Learned counsels appearing for the respondents submit that a scheme which was to be promulgated to bring the Sahayikas at par with the para-teachers could not be promulgated as yet. On such score, learned counsels submit that if the petitioners who are to retire within six months, they may withdraw their option.

Learned counsel for the petitioners accepts such submission/suggestion advanced on behalf of the respondents.

Having heard learned counsels for the parties and on consideration of the relevant Government Orders/ notifications annexed to the writ petition, I feel that the prayers made by the petitioners may be allowed.

Therefore, in view of the above, the petitioners are allowed to switch back to the post of Sahayika with immediate effect and work as Sahayika till the age of 65 years. However, the petitioners shall not be allowed to claim any benefit available to the para-teachers in future.

With the aforesaid observations, WPA No.26212 of 2022 stands disposed of. No order as to costs.

Since no affidavit has been filed, the allegations contained in the writ petition shall be deemed not to have been admitted by the respondents.

All parties are to act on the server copy of this order

duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Rabindranath Samanta, J]