

01-12-2022
Item No.5
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.24238 of 2019
Sri Shyamal Kumar Mondal
-vs-
The State of West Bengal & Ors.

Mr. Arunava Banerjee
Ms. Mamata Dutta ...for the petitioner

Mr. Naren Ghosh Dastidar ...for the State

The writ petitioner states that he joined as a Group D (Class IV) staff in Dari Keoradangi Ananda Prosad Junior High School on January 31, 1982. By a memo dated May 25, 2010, the West Bengal Board of Secondary Education granted recognition for upgradation to the said school. By a representation dated June 7, 2010 the petitioner sought for approval of his appointment as a Group D employee of the school. Getting no response to the representation made by him, the petitioner along with other employees approached this court seeking appropriate relief by filing a writ petition being WP No.14073(W) of 2010. By an order dated December 24, 2010 the writ petition was disposed of by a learned single Judge of this court directing the District Inspector of Schools to approve the appointment of the petitioner along with other petitioners. Aggrieved by this order, the State took out an application recalling the order, but it was rejected. An appeal was preferred assailing the order of rejection of the recalling application, but the appeal stood dismissed as well. Ultimately, the District Inspector of Schools (SE), South 24 Parganas vide memo dated February 6, 2017 approved the appointment of the petitioner with effect from January 1, 2014.

It is the grievance of the petitioner that he has not received the pay which is admissible to a Group D staff from the authority concerned. In his supplementary affidavit, the petitioner seeks a direction upon the authority concerned for release of the pay together with other benefits as admissible to him for the period from January 2014 to March 2016 as spelt out at page 7 (Annexure P1) of the supplementary affidavit. The petitioner also seeks a direction upon the authority concerned to release the gratuity as well as pensionary benefits to him.

Learned counsel appearing for the petitioner submit that service of the petitioner should be counted from January 31, 1982. In case such benefit is not allowed to the petitioner, his service should be counted at least from December 24, 2010 when the earlier writ petition being WP No.14073(W) of 2010 was disposed of. Learned counsel also submits that the authority concerned should be directed to grant pensionary benefits to the petitioner taking his past service in account.

Per contra, learned counsel on behalf of the State submits that arrear pay, if any, payable to the petitioner may be considered by the court with effect from the date of appointment i.e. January 1, 2014.

To this, learned counsel for the petitioner submits that if the date of appointment of the petitioner is taken into consideration with effect from January 1, 2014, getting pensionary benefits by the petitioner may be jeopardised.

Having heard learned counsels for the respective parties and on consideration of the documents annexed to the writ petition and the supplementary affidavit, I think that the writ petition may be disposed of by passing the following directions.

Accordingly, the writ petition is disposed of directing the fourth respondent, District Inspector of Schools (SE), South 24 Parganas, to release the pay and arrear pay to the petitioner for the period from January 1, 2014 to March 31, 2016 with interest at the rate of 6% p.a. till the date of actual payment, within a period of six weeks from the date of communication of this order.

The fourth respondent is further directed to release the gratuity amount as well as the provident fund, if is admissible to the petitioner, also within the aforesaid stipulated period.

The concerned respondent will sympathetically consider whether any pensionary benefit can be granted to the petitioner counting his service from December 24, 2010 when the order was passed in the earlier writ petition [WP No.14073(W) of 2010].

WPA No.24238 of 2019 is thus disposed of. No order as to costs.

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]

