

Ct. 16.12
No. 2022
14
akb

W.P.A. 27678 of 2022
Debjani Maity & Anr.
-Versus-
The State of West Bengal & Ors.

Mr. Bidhan Biswas **...For the Petitioner**

Md. Sarwar Jahan
Ms. Mousumi Mitra **...For the Respondent No. 4**

Mr. Tapan Kumar Mukherjee
Ms. Saheli Mukherjee **...For the State Respondents**

Affidavit-of-Service filed on behalf of the petitioner be taken on record.

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 format 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 April 1, 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 counsel appearing for the respondent No. 4 submits 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 counsel submits 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 respondent No. 4.

However learned Counsel for the State respondents submits that since the petitioners have distinct cause of action and they do not possess jural relationship, the writ petition brought by them is liable to be dismissed.

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 27678 of 2022 stands disposed of.

There shall be no order as to costs.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat copy of the order, if applied for, be supplied to the petitioner on priority basis on compliance of necessary formalities, on priority basis.

(*Rabindranath Samanta, J.*)