

13.07.2022
RP/Ct. 2
sl no. 14

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Constitutional Writ Jurisdiction**

**WPA 1728 of 2022
Subal Bhattacharjee
Vs.
The State of West Bengal & Ors.**

Mr. Ajay Kumar Singhania
Ms. Modhurima Roy

.... For Petitioner

Mr. Pretom Das

.... For State

As prayed for by Mr. Singhania, learned advocate for the petitioner, leave is granted to the learned Advocate-on-Record to file affidavit-of-service by 14.07.2022. He further submits that all the respondents have been duly served.

Petitioner has challenged the memo dated June 2, 2005 issued by the Chairman, District Primary School Council, Jalpaiguri, being the respondent no.4 herein, whereby it was held that the services of the teaching and non-teaching staffs of Sishu Mahal Primary School would be counted from the date of their joining and appropriate scale benefit would also be allowed notionally with effect from their date of joining whereas the monetary benefit will be given with effect from April 1, 2003.

Mr. Singhania, learned advocate appearing for the petitioner draws attention of the Court to the order

passed by a coordinate Bench on August 29, 2019 in WPA 342 of 2019 (Subhra Som vs. The State of West Bengal & Ors.) and submits that the coordinate Bench on a writ petition deciding an identical issue held that the monetary benefit is also to be paid with effect from their date of joining.

Mr. Das, learned advocate appears for the State and does not dispute the legal position that the petitioner is entitled to all the benefits with effect from his date of joining.

Heard the learned advocates for the parties and considered the materials placed.

This Court had the occasion to decide a writ petition, being WPA 749 of 2022 (Ila Choudhury Saha @ Ila Chowdhury Saha vs. The State of West Bengal & Ors.) on July 11, 2022.

After taking note of the coordinate Bench's decision in WPA 342 of 2019 this Court directed the concerned authority to issue necessary direction for disbursing all the benefits in favour of the petitioner by treating the petitioner to be entitled to all benefits with effect from her date of joining.

The said decision in the case of Ila Choudhury Saha @ Ila Chowdhury Saha (supra) is squarely applicable to the facts of this case. The learned advocate appearing for the State, in his usual fairness, does not

dispute the applicability of the said decision to the facts of this case. In view thereof, the portion of the order dated June 2, 2005 issued by the Chairman, District Primary School Council, Jalpaiguri that the monetary effect will be given retrospectively from 1.4.2003 is set aside and quashed. The concerned District Inspector of Schools (Primary Education), Jalpaiguri, being the respondent no.2 herein, the Commissioner, Director of School Education, being the respondent no.5 and the Deputy Director, Office of Director of Pension, Provident Fund and Group Insurance, being the respondent no.6 herein, are directed to take all necessary steps for issuance of revised pension payment order in terms of this order and to release all benefits in terms of this order to the petitioner. The entire exercise shall be completed within a period of four weeks from the date of communication of this order to the aforesaid respondents.

With the aforesaid directions, this writ petition stands disposed of. There shall, however, be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all usual formalities.

(Hiranmay Bhattacharyya, J.)

