

13.07.2023
SL No.7
Court No.8
(gc)

FMA 1764 of 2018
CAN 1 of 2017 (Old No: CAN 4316 of 2017)

Shyama Prasad Ukil
Vs.
The State of West Bengal & Ors.

Mr. Subir Sanyal,
Mr. Sajal Kanti Bhattacharyya,
Mr. Sankar Halder,
Mr. Sarthak Burman,
...for the Appellant.
Mr. Raja Ram Banerjee,
...for the State.
Mr. Himadri Sikhar Chakraborty,
...for the Respondent No.6/
Headmaster.

Affidavit of service filed by the
appellant/petitioner is kept with the record.

The report filed by the State is kept with the
record.

The appeal is arising out of an order dated 2nd
March, 2017 in a writ application filed by the
appellant for release of his provident fund dues.
The record reveals that the Secretary of the school
had issued a “No Liability Certificate” on 3rd
November, 2014 and he had also issued a letter on
5th November, 2014 recording that the keys of office
almirahs and keys of the Headmaster’s room were
duly handed over to the Secretary on 31st October,
2014 in the afternoon. The Secretary had received
all relevant papers, registers from the
Headmaster/appellant. It is not in dispute that

following the “No Liability Certificate”, the appellant had received gratuity and is receiving pension. No proceeding has been initiated against the appellant alleging defalcation of fund or misappropriation. It appears that the District Inspector of Schools (SE), Nadia tried to resolve the issue following the order passed on 25th February, 2016. However, in resolving the said issue, District Inspector of Schools had mistakenly considered the submission made on behalf of the school as the finding of the learned Single Judge. There is a clear error apparent on the face of the said order. Having regard to the documents, namely, “No Liability Certificate” and the letter dated 5th November, 2014, the provident fund dues could not have been withheld.

Under such circumstances, we set aside the order passed by the learned Single Judge.

The appeal succeeds.

We direct the Headmaster/respondent No.6 and the District Inspector of Schools (SE), Nadia to ensure that provident fund dues are released within four weeks from date.

Accordingly, the appeal and the application stand disposed of.

However, there shall be no order as to costs.

Urgent Photostat certified copies of this order,
if applied for, be given to the parties on usual
undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)