

86 28.02.2023
Sc Ct. no.22

WPA 935 OF 2023

Amala Roy Das @ Amala Das Roy

Vs.

The State of West Bengal & Ors.

Mr. Syed Shamsul Arefin

...For the Petitioner

Mr. Suman Dey

....For the Respondent/
State

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Syed Shamsul Arefin, learned advocate appeared for the petitioner.

The petitioner claimed to be the **Head Mistress of one Khamargachi Girls' High School, District - Hooghly**. The petitioner **will be retiring on and with effect from March 31, 2023**.

The petitioner submitted that there was no disciplinary proceeding neither any legal proceeding initiated by his employer against the petitioner and nothing is pending as of date. The petitioner further contended that in the event the issue is not resolved before retirement of the petitioner, she will also not receive her due pension arising out of her employment.

Mr. Suman Dey, learned advocate appeared for the State respondent.

Rest of the respondents chose not to be represented.

Mr. Dey, on instruction, submitted that the petitioner was released from the **Khamargachhi High School (H.S.), District – Hoogly on January 28, 2020** and after that the petitioner did not join the transferred school, i.e., **Bhanderhati Balika Bani Mandir**. The salary requisition was not issued by any of the schools.

Mr. Arefin, learned advocate for the petitioner denied and disputed such statements made by Mr. Dey, learned State advocate.

Considering the submissions made on behalf of the parties and considering the materials on record, to subserve justice, **liberty is granted to the petitioner to make a comprehensive representation before the respondent no.6 within a period of three days from date.**

In the event such comprehensive representation is received by the respondent no.6, after issuing at least a three days' prior hearing notice to the petitioner and the school authority being the respondent no.8 and after giving them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law within a period of **three days thereafter.**

The comprehensive representation to be submitted by the petitioner shall be restricted to the extent the case made out in the writ petition along with the appended documents therewith and shall not travel beyond that.

The entire exercise, as directed above, shall be carried out by the **respondent no.6 positively on or before March 30, 2023** i.e. before the date of retirement of the petitioner.

The respondent no.6 shall then communicate the said reasoned order to the petitioner and the respondent no.8 on or before **March 31, 2023**.

It is made clear that this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner and the relevant school authority shall be at liberty to urge whatever points they wish to urge by relying upon whatever documents and records they wish to rely upon before the respondent no.6 and the respondent no.6 then in exercise of its independent mind shall decide the issue.

Since affidavits are not called for, the allegation made in this writ petition are deemed not to have been admitted by the respondents.

In the event the reasoned order goes in favour of the petitioner, then the respondent no.6 shall take all further and consequential steps to give effect to the said reasoned order including for the payment of pension payable to the petitioner forthwith but positively within a period of two weeks from the date of passing of the said reasoned order.

The relevant school authority shall cooperate in every respect at every stage.

It is made clear that this order shall not create any equity or right in favour of the petitioner if the petitioner is not eligible to receive her claim strictly in accordance with law.

On the above terms this writ petition, **WPA 935 of 2023**, stands disposed of without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)