

W.P.A. 237 of 2018

Malabika Tewari

-vs-

The State of West Bengal & Ors.

Mr. Ekramul Bari,
Syed Mansur Ali

....for the petitioner.

Ms. Chaitali Bhattacharya,
Mr. Kartik Chandra Kapas

....for the State.

Petitioner is an assistant teacher of a Government aided high school with effect from 1st February, 1986. Prior to appointment of the petitioner in North End Girls' High School, Kolkata (hereinafter referred to as the "said school"), petitioner rendered service as assistant teacher in Reapara SS Balika Vidyamandir in Purba Medinipur for the period from 19th July, 1982 till 31st January, 1986.

Mr. Bari, learned advocate representing the petitioner submits that since petitioner was suffering from cancer she made an application dated 5th May, 2012 expressing her inability to continue to function as an assistant teacher in the said school and requested the said school authority for taking steps in order to extend the benefit of voluntary retirement in favour of the petitioner.

However, on drawing attention of this Court

to letter dated 19th December, 2016 of the Teacher-in-Charge of the said school, at page 29 of the writ petition, it has been submitted that the prayer of the petitioner for voluntary retirement was refused by the concerned District Inspector of Schools (S.E.), Kolkata as a result whereof payment of pension and gratuity was not considered.

Ms. Bhattacharya, learned senior Government advocate submits that the concerned District Inspector of Schools (S.E.), Kolkata being the respondent no.3 had to act on the basis of the application of the petitioner dated 5th May, 2012 which is at page 19 of the writ petition as a result whereof decision was taken by respondent no.3 not to grant pension and gratuity. However, it has been submitted that Provident Fund amount has already been released in favour of the petitioner.

Having considered the submissions of the respective parties and on perusal of the relevant materials available on record, this Court directs the respondent no.3 to take decision afresh on the prayer of the petitioner as contained in letter dated 5th May, 2012 whether approval can be granted to the petitioner upon treating the discontinuation of the service of the petitioner against voluntary retirement. Since previously no opportunity was

granted by the respondent no.3 before taking decision as communicated by the school authority such decision, if taken by the respondent no.3 stands set aside and the decision to be taken by the respondent no.3 shall be after granting opportunity of hearing to the petitioner and the representative of the said school authority.

Such decision to be taken by the respondent no.3 within a period of eight weeks from the date of communication of this order taking into consideration of the fact that the petitioner is a patient of cancer therefore sympathetic decision is required to be taken.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)