

08.08.2023  
Item No. 65  
Crt.No.22  
b.r.

WPA 1194 of 2018

***Mahadeb Bhattacharya***  
**-vs-**  
***The State of West Bengal & Ors.***

Mr. Anjan Bhattacharya  
Ms. Anita Shaw  
Ms. Salma Sultana  
.... For the petitioner.

The previous order speaks for itself.

Today, the writ petition appeared under the heading **“For Dismissal”**.

Mr. Anjan Bhattacharya, learned advocate appeared for the petitioner.

None appeared for the respondents.

Considering the issue involved in this writ petition and considering the materials on record, this Court is of the view that since the writ petition is pending from 2018 and the concerned employee has already retired in **January 2019**, any further pendency of the writ petition shall not serve any useful purpose. The writ petition is therefore taken up for consideration and disposal.

The petitioner while serving as an **Assistant Teacher at Rabindra Smriti(s) Vidyaniketan, District-Hooghly** was subjected to a disciplinary proceeding and was suspended. The subsistence allowance payable to

the petitioner in accordance with law was not paid at all.

The petitioner claimed release of such subsistence allowance together with arrears and interest thereupon.

In the first round of writ litigation, **WP No. 7284(W) of 2016**, a co-ordinate Bench by its order dated **January 9, 2017** directed the respondent no.3 to consider the case of the petitioner within a specified time frame, **Annexure P-4 at Page 38** to the writ petition.

The petitioner submitted its representation dated **December 8, 2017, Annexure P-5 at Page-40** to the writ petition through its learned advocate before the respondent no.3 with all supporting materials. The same has not been considered by the respondent no.3.

Considering the submission made on behalf of the petitioner and considering the averment made in the writ petition and upon perusal of the materials on record, to sub-serve justice, the respondent no.3 is directed to consider the representation dated **December 8, 2017 Annexure P-5 at Page 40** to the writ petition, made on behalf of the petitioner considering the same to be the representation of the petitioner upon issuing atleast a seven days prior hearing notice to the petitioner and the respondent no.4 and after giving

them an opportunity of hearing shall pass a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the **respondent no.3 positively within a period of six weeks from the date of communication of this order.**

The respondent no.3 then shall communicate the reasoned order to the petitioner and the relevant school authority **positively within a period of two weeks from the date of the reasoned order to be passed.**

It is made clear that this Court has not gone into the merit 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 records and documents they wish to rely upon before the respondent no.3 but the same shall not travel beyond the scope of the representation dated December 8, 2017.

In the event, the reasoned order goes in favour of the petitioner, then the respondent no.3 shall calculate **interest** at the rate of **8% per annum** on the arrears payable to the petitioner **since the date of eligibility of the petitioner receiving such subsistence allowance till the date of tendering of the amount to the petitioner.**

This order shall not create any equity and right in favour of the petitioner and the respondent no.3 shall be free to decide the issue strictly in accordance with law.

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

In the event, the reasoned decision goes in favour of the petitioner, the District Inspector of School shall direct immediately and take all further and consequential steps for release of the payment and the payment shall be released to the petitioner positively within a further period of **four weeks** from the date of the reasoned order to be passed.

On the above terms, this writ petition being **WPA 1194 of 2018** stands **disposed of** without any order as to costs.

**(Aniruddha Roy, J.)**