

W.P.A. 2780 of 2020

Mita Chowdhury
Vs.
The State of West Bengal & Ors.

Ms. Malabika Roy Dey
...for the petitioner

Mr. Subrata Ghosh
Mr. Rajaram Banerjee
...for the State

Petitioner was an assistant teacher in Deshapran Birendra Nath Institution for Girls, Kolkata, being the respondent nos. 6 & 7 (hereinafter referred to as the “said school”). It has been submitted on behalf of the petitioner that the present writ petition, *inter alia*, was instituted claiming retiral benefits including pension in view of superannuation of the petitioner on 31st December, 2019. It has also been submitted before this Court on behalf of the petitioner that pursuant to the order passed by a coordinate Bench on this writ petition provisional pension has been released without other benefits lying due which are required to be released in favour of the petitioner expeditiously.

Today, no one is representing the said school authority though pursuant to the previous order passed by this Court a detailed report has been filed on behalf of the said school authority dated 11th April, 2023 wherefrom it appears that Rs. 2,00,177.56 was calculated by the said school authority as overdrawn

amount in view of excess leave enjoyed by the petitioner which is extraordinary leave without pay and half average pay leave. According to the said school authority, since aforesaid leave was not sanctioned in favour of the petitioner during her tenure, on calculation it was found that Rs. 2,00,177.56 was excess drawn by the petitioner which needs to be recovered from her retiral dues.

This Court during course of hearing had occasion to go through the prayers couched in the writ petition wherefrom it does not appear that petitioner has prayed for sanction of leave in accordance with Leave Rules in order to regularize of the pension case of the petitioner. Neither the issue relating to sanction of leave by the said school authority *qua* right of the petitioner to enjoy such leave has been pleaded in the writ petition inviting adjudication by this Court.

State-respondents are represented by learned advocate and submits that dispute is in between the said school authority and petitioner. However, it has been submitted the appropriate authority is the West Bengal Board of Secondary Education which is empowered to decide the right of the petitioner whether petitioner can enjoy such leave or not.

Having considered the submissions made on behalf of the respective parties and on perusal of the materials available on record including the report filed on behalf of the said school authority dated 11th April, 2023, this

Court directs the said school authority as well as the State-respondents to settle the pension case of the petitioner expeditiously. Since the learned advocate representing the State-respondents has submitted that pension papers of the petitioner have already been placed before the concerned District Inspector of Schools (SE), Kolkata being the respondent no. 5, the respondent no. 5 is directed to finalise the pension case of the petitioner and forward the same to the Director of Pension, Provident Fund and Ground Insurance being the respondent no. 3 within 6 (six) weeks from the date of communication of this order. The respondent no. 3 on receipt of pension papers shall issue Pension Payment Order in favour of the petitioner within 4 (four) weeks thereafter.

However, it is made clear since the issue relating to sanction of leave in favour of the petitioner could not be decided in this writ petition since the issue has not been pleaded and no prayer has been made to that extent claiming sanction of leave the State-respondents shall settle the pension case of the petitioner based on the calculations made by the said school authority relating to excess drawn amount.

The writ petition stands disposed of.

The exception filed by the petitioner to the report by the school authority is taken on record.

However, this order shall not preclude the petitioner to approach the appropriate authority for redressal of her grievance relating to sanction of leave in accordance with law, if so advised.

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.)