

Court No. 22
03.01.2023
(Item No. 63)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 3763 of 2022

Soumitra Mandal
VS
The State of West Bengal & Ors.

Mr. Arnab Roy
Mr. Satyam Mukherjee
Ms. Sayani Ahmed
..... for the petitioner
Ms. Koyeli Bhattacharyya
.....For WBBSE
Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
.... For the State

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

The petitioner claimed to be an **Assistant Teacher** for the **science group** at **Amta Pitambar High School, District Howrah**. He served as such for about 32 years and is still there as such. The petitioner's retirement is due in the month of December 2023. The petitioner claimed to have been demoted by the relevant school authority. The petitioner ventilated his grievance contemporaneously.

By an order dated September 8, 2021 passed by a co-ordinate bench in a previous writ petition being **WPA 5069 of 2021** the petitioner was granted liberty to ventilate its grievance before the relevant appellate authority under the West Bengal Board of Secondary Education Act 1963. The necessary appeal

was duly filed on or about October 7, 2021, **Annexure P-12** to the writ petition. The grievance of the petitioner is that, despite the appeal being filed the same had not been received any attention of the appropriate authority.

Ms. Koyeli Bhattacharyya, learned counsel appears for respondent Nos. 2 and 3 submitted that, the memorandum of appeal filed by the petitioner was sent and filed before a wrong authority namely the Principal Secretary, the West Bengal Board of Secondary Education, **Annexure P-13** to the writ petition.

Ms. Bhattacharyya, learned counsel in her usual fairness submitted that, the appropriate forum should be Commissioner of School Education the office whereof is situated at Bikash Bhavan at Salt Lake being the appropriate statutory appellate authority.

Considering the above submissions made on behalf of the parties and considering the materials on record and for the ends of justice, the petitioner shall be at liberty to file an appeal afresh on the self-same cause of action and grounds mentioned in the memorandum of appeal, **Annexure P-12** to the writ petition and not to deviate there from in any manner and file the same before the Commissioner of School Education, Education Department, the proper appellate authority within a period of two weeks

hereof. It is needless to mention that a copy of this writ petition shall also be furnished before the said appropriate authority so that, if necessary, he may examine the scope and ambit of the previous appeal being **Annexure P-12** to the writ petition.

In the event, such an appeal is filed by the petitioner within the time specified above the appropriate appellate authority namely, Commissioner of School Education, Education Department shall deal with the same after issuing at least seven days prior hearing notice to the petitioner and all other relevant parties thereto and then shall after affording an opportunity of hearing shall decide the appeal with its reasoned order/decision strictly in accordance with law.

The entire exercise as directed above shall be carried out and completed by the appropriate appellate authority within eight weeks from the date of receiving the said fresh appeal from the petitioner. The appropriate appellate authority then shall communicate its reasoned decision to the petitioner and all other relevant parties within a further period of two weeks after conclusion of the hearing of the appeal.

In the event, the decision in the appeal goes in favour of the petitioner, the relevant school authority namely the respondent Nos. 6 to 8 shall take all necessary and consequential steps in the matter and

all further steps shall be taken by the respondent No. 4 also in this regard as expeditiously as possible.

It is made clear that this Court has not gone into the merit of the claim of the petitioner in its appeal in any manner and the petitioner shall be at liberty to urge whatever points he wishes to urge before the appellate authority but not beyond the scope and ambit of the appeal being **Annexure P-12** to the writ petition.

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

It is made clear that, this order shall not create any equity in favour of the petitioner on the merits of the appeal and the appropriate appellate authority shall be free to decide the appeal without any fetter but strictly in accordance with law.

On the above terms, this writ petition being **WPA 3763 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)