

23 09.6.2023
Sc Ct. no.22

WPA 6846 OF 2018

Anjana Singha @ Sarkar

Vs.

The State of West Bengal & Ors.

Md. Salahuddin
Md. Ahsanuzzaman.

....For the Petitioner

Ms. Chaitali Bhattacharya
Mr. Mrinal Kanti Ghosh.

....For the State

Mr. Bharat Chandra Simai

....For the Respondent
No.5

The petitioner claimed to be a **Group-D staff at Sahajadpur Omrapur High School (H.S.), Murshidabad.** The petitioner claimed the arrear salary for the period from **February 20, 1999 till November 30, 2002.**

This is the third round of writ litigation. The first writ petition being **W.P. No. 2061 (W) of 2014**, filed by the petitioner on the issue, was disposed of by a coordinate Bench on **August 8, 2014** directing the respondent no.3 to consider the issue within a timeframe.

Pursuant to the said direction, the respondent no.3 passed its impugned order dated **April 8, 2015, Annexure-P7 at page 34 to the writ petition.** The respondent no.3 directed the school authority to send a report along with a photocopy of the Attendance Register

for the said period in the manner and mode as mentioned in the order dated April 8, 2015.

Following the said direction of the respondent no.3, the school authority by its communication dated **September 8, 2015, Annexure-P8 at page 35 to the writ petition** sent the necessary information before the respondent no.3.

Md. Salahuddin, learned advocate appearing for the petitioner submitted that, despite repeated demands for justice dated **July 4, 2016 and October 3, 2016**, the respondent no.3 failed to take any step in the matter.

Referring to an order dated September 19, 2016 passed in the second round of writ litigation, filed by the petitioner being **W.P. No.19681 (W) of 2016, Annexure-P10 at page 38 to the writ petition**, learned counsel for the petitioner submitted that, specific direction was made upon the respondent no.3 to release the amount but the respondent no.3 failed to carry out the direction of the said coordinate Bench. However, Md. Salahuddin also submitted that, no contempt application was taken out by the petitioner under the said order dated **September 19, 2016**.

In course of the argument Mr. Bharat Chandra Simai, learned advocate appearing for the respondent no.5 placed a communication dated **April 8, 2023** received from his client wherefrom it appeared that, the copies of the Attendance Register for the relevant period

for which the petitioner is claiming the arrear salary were all misplaced from the custody of the school and a necessary police diary was also made on April 27, 2017. A copy of the instruction letter dated April 8, 2023, handed over by Mr. Simai, learned advocate is taken on record.

Ms. Chaitali Bhattacharya, learned State counsel appeared for the respondent nos. 1, 2 and 3 and submitted that, from the writ petition it appeared that, several information and documents though were produced by the school authority before the respondent no.3 but the relevant materials were not produced, viz. the Attendance Register for the relevant period and the Acquittance Roll.

Considering the submissions made on behalf of the appearing parties and considering the materials on record at the threshold it appeared to this Court that, the order of the coordinate Bench dated **September 19, 2016** passed in the said second round of writ litigation did not specify any reason as to why the amount was directed to be released by the relevant District Inspector of Schools. In any event, no contempt proceeding was also initiated thereunder.

Inasmuch as, from the submissions made on behalf of the parties and the materials available on record it appeared to this Court that, several documents need to be examined carefully and, accordingly, a fact finding inquiry

is required to be made carefully to arrive at a conclusion as to the eligibility of the petitioner to receive her claim.

To subserve justice, the respondent no.3 is directed to issue at least a seven days prior hearing notice upon the petitioner and the respondent no.5 and then after granting them an opportunity of hearing shall decide the issue by passing a reasoned order strictly in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 on the basis of existing records and materials available before it already submitted by the petitioner and the relevant school authority and not beyond that positively within a period of eight weeks from date of communication of this order.

The respondent no.3 then shall communicate its reasoned order to the petitioner and the respondent no.5 within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the petitioner and the relevant school authority shall be at liberty to urge whatever points they wish to urge on the basis of the existing materials before the respondent no.3.

It is also made clear that, this order shall not create any equity or right in favour of the petitioner if the

petitioner is ultimately found to be ineligible to receive her claim strictly in accordance with law.

In the event the reasoned decision goes in favour of the petitioner then all consequential steps shall be taken by the respondent no.3 and the respondent no.2 and any other appropriate authority as the case may be but positively within a period of four weeks from the date of communication of the said reasoned order to them.

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

On the above terms this writ petition, **WPA 6846 of 2018** stands disposed of, without any order as to costs.

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

(Aniruddha Roy, J.)