

13-03-2023
Item No.22
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.8273 of 2022
Hazra Khatun & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya
Mr. Aninda Bhattacharya
Mr. Bidhan Biswas ...for the petitioners

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee ...for the State

Md. Sarwar Jahan
Ms. Mousumi Mitra
Mr. Asif Mehdi ...for respondent no.4

The petitioners were engaged as *Sahayaks/Sahayikas* in different Sishu Siksha Kendras (SSKs) for a period of one year and in that regard agreements were executed between them. Thereafter, by the subsequent agreements between them the engagement was renewed from time to time.

By a notification dated May 2, 2008 issued by the Department of Panchayats and Rural Development, Government of West Bengal, the upper age limit to continue as *Sahayaks/Sahayikas* of SSKs was enhanced to 65 years, instead of 60 years.

With regard to a notification dated December 18, 2019 issued by the School Education Department, Elementary Education Branch, Government of West Bengal, the administrative control of Sishu Siksha Kendras (SSKs) and Madhyamik Siksha Kendras (MSKs) was entrusted to the School Education Department, Government of West

Bengal. By the said notification, it was stated therein that *Sahayaks/Sahayikas* who were within the age of 60 years on 1st April 2020, would be required to give their option in the prescribed format by 1st February 2022 for treating them at par with the para-teachers of Paschim Banga Samagra Shiksha Mission under the School Education Department. As per the notification, they would remain engaged with similar terms and conditions as that of para-teachers to get the similar benefits extendable to them.

The petitioners submit that though they exercised their option, but no benefit was extended to them which are admissible to the para-teachers. Under such circumstances, the petitioners seek directions upon the respondent authorities so that they may be reverted back to their previous status of *Sahayaks/Sahayikas* and be allowed to continue their service till the age of 65 years.

Learned counsel for the petitioners submits that the petitioners were allured by the aforesaid notification dated December 18, 2019 that they would get the benefit of Employees Provident Fund (EPF) as was admissible to the para-teachers. But, since they exercised option, no benefit of EPF was granted to them. Learned counsel also submits that if the option exercised by them subsists, his clients would have to retire at the age of 60 years. He emphasizes that the petitioners be reverted back to the previous status and be allowed to continue their services as *Sahayaks/Sahayikas* till the age of 65 years. In such context learned counsel informs the court that the thirteenth petitioner namely Md. Abul Khayer has already retired after attaining the age of 60 years and as such he submits that this petitioner be allowed to join his service and continue his service till the age of 65 years.

On the other hand, learned counsel representing the Mission Director, Paschim Banga Rajya Sishu Siksha Mission, the fourth respondent herein, submits by referring to a recent memo dated 1st March 2023 that the Mission Director will have no objection if the petitioners are allowed to continue their services up to the age of 65 years. He further submits that till date the authority has not extended any additional benefit to *Sahayaks/Sahayikas* at par with the para-teachers except granting the terminal benefit of Rs.3,00,000/-. He also submits that in the aforesaid memo dated 1st March 2023, it has been stated therein that engagement of *Sahayaks/Sahayikas* has been stopped since 2012. Learned counsel, based on this memo, submits that the authority concerned has no objection if the *Sahayaks/Sahayikas* are reverted back to their previous status, provided they will not claim any benefit that are given or may be given in future to them treating at par with the para-teachers including Rs.3,00,000/- as terminal benefit. Learned counsel informs the court that the memo dated 1st March, 2023 which was addressed to the Additional Secretary, Government of West Bengal has not yet been responded to.

Having heard learned counsels appearing for the respective parties and on consideration of the documents on record, especially the relevant Government notifications, I feel that the writ petition may be disposed of by passing the following directions.

The concerned respondents are directed to revert back the petitioners to their previous status of *Sahayaks/Sahayikas* from the status at par with para-teachers and allow them to maintain such status treating the option exercised by them as cancelled/withdrawn immediately.

The petitioners are permitted to continue their services as *Sahayaks/Sahayikas* up to the age of 65 years.

The concerned respondents are directed to allow the petitioner No. 13 Md. Abul Khayer to join his service as Sahayak and continue his service till the age of 65 years treating his service as continuing one immediately.

It is made clear that the petitioners will not be allowed to claim the benefits as admissible to the para-teachers.

With the above directions WPA No.8273 of 2022 stands disposed of. No order as to costs.

The parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Rabindranath Samanta, J.]

