

27.09.2023
Item No. 74
Crt.No.22
b.r.

WPA 6752 of 2020

**IA No. CAN 1 of 2020 (Old No. 5672 of 2020)
CAN 2 of 2022**

**Khana Dsamajpati (Sarkar)
-vs-
The State of West Bengal & Ors.**

**Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Mousumi Hazra
Ms. Payel Shome
Ms. Sampriti Saha
Mr. Abhijit Kar
..... for the petitioner.**

**Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
.... For the State.**

**Ms. Koyeli Bhattacharyya
.... For the WBBSE.**

Pursuant to the direction of this Court, the respondent nos. 2, 3 and 4 file its affidavit-in-opposition affirmed on December 1, 2020, time is extended today, the same is taken on record.

The decision of the relevant school authority for initiating disciplinary proceeding against the petitioner was negated and turned down by the respondent-Board by its decision dated **December 26, 2014 annexure – P-12 at page-67** to the writ petition. The relevant observation of the Board is quoted below:-

“ Hence, after careful observation of the facts & circumstances of the case, it is ordered that the Proposal for approval of the disciplinary proceeding (1st stage) against Smt. Khana Samajpati, Assistant Teacher of the School cannot be accorded provided there is no contrary order of the Hon’ble Court. Let Smt. Khana Samajpati, Asst. Teacher of the school be reinstated immediately and the period of suspension be treated as “period spent on duty”.

In view of the said finding of the Board, the petitioner had been allowed to join the school on and from December 21, 2020, pursuant to the direction of a co-ordinate Bench dated September 21, 2020.

The petitioner claims that the period of suspension though was directed by the Board to be treated as **“period spent on duty”**, the relevant school authority did not release the necessary allied service benefit relating to the employment of the petitioner.

The petitioner thereafter submitted a representation dated **August 9, 2021**, *inter alia*, before the **respondent no.5 at page-57 to CAN 2 of 2022**. Such representation has not yet been attended.

Ms. Koyeli Bhattacharyya, learned counsel, appears for the respondent nos. 2, 3 and 4.

Mr. Suman Dey, learned counsel led by Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader, appears for the respondent nos. 1 and 5.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, the **respondent no.5** is directed upon issuing a prior hearing notice of seven days to the petitioner and the **respondent no.7** and after giving them an opportunity of hearing shall decide the issue and pass necessary direction for release of all the employment benefit to the petitioner **strictly** in terms of the finding made by the Board in its order dated **December 26, 2014** as referred to above being **annexure p-12** to the writ petition by passing a reasoned order.

The entire exercise shall be carried out and completed by the **respondent no.5** positively within a period of **six weeks** from the date of communication of this order. The respondent no.5 shall then communicate its reasoned order to the petitioner and the respondent no.7 positively within a further period of **two weeks** from the date of the said reasoned order to be passed. The **respondent no. 5** shall also direct and communicate his reasoned order to the appropriate authorities who shall actually release the service benefit to the petitioner forthwith.

On the above terms and with the above directions, this writ petition **WPA 6752 of 2020** stands **allowed** along with connected applications, without any order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)