

42 07.8.2023
Sc Ct. no.22

WPA 8891 OF 2011

Sangita Bandyopadhyay

Vs.

The State of West Bengal & Ors.

Mr. Syed Mansur Ali

....For the Petitioner

Mr. Avishek Prasad

....For the State

Two affidavits-of-service, filed in Court today, are taken on record.

This is a hearing matter pending since 2011.

Syed Mansur Ali, learned advocate appeared for the petitioner.

The order dated **June 12, 2023** showed that, the learned advocate appeared for the State then is no more in the State panel today. Accordingly, Mr. Avishek Prasad, learned advocate is requested to hold the brief and appear in the matter to assist this Court. His appearance shall be regularised by the office of the learned Government Pleader.

By an order dated **January 18, 2012** a direction was made for filing affidavits. The original affidavit-in-opposition is not on record.

Learned advocate for the petitioner prayed for leave to file his affidavit-in-reply today in Court.

Time is extended and the affidavit-in-reply filed in Court today is taken on record.

Considering the issue involved in this writ petition and considering the long pendency thereof, this Court is of the view that, any further pendency of this writ petition shall not serve any useful purpose and, accordingly the same is taken up for consideration and disposal.

The petitioner at the relevant point of time was an **Assistant Teacher at one Ahmadpur Jay Durga Girls' High School, District – Birbhum.** Subsequently, the petitioner after being qualified in the **Regional Level Selection Test – 2004** had received a fresh appointment at **Tantipara Indian Textile Girls' High School, District – Birbhum.** The date of **Appointment Memo** was **December 14, 2004, Annexure – P2 at page 21 to the writ petition.** The petitioner joined the said second school **w.e.f. March 1, 2005.**

At the relevant point of time from time to time the petitioner requested for the **Release Order** from the erstwhile school and also for **transfer of all Service Book, Provident Fund Account and other records and documents of the petitioner** which were required to be transferred **from the said erstwhile school to the newly joined school.** But the erstwhile school failed to take any step till today.

As a result, the service records of the petitioner are lying in an irregular manner though the petitioner has rendered her service with an unblemished career.

Considering the submissions made on behalf of the petitioner and considering the case made out in the writ petition, the petitioner shall be at liberty to make a composite representation before the respondent no.3 positively within a period of three weeks from the date. The said representation shall not travel beyond the case made out in the writ petition.

In the event the said representation is made, the respondent no.3 upon issuing at least a seven days' prior hearing notice to the petitioner and the erstwhile school authority and the present school authority and after granting them an opportunity of hearing shall decide the issue by passing a reasoned order.

The entire exercise as directed above, shall be carried out and completed by the respondent no.3 positively within a period of eight weeks from the date of communication of this order.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner and the respective school authorities shall be at liberty to urge whatever point they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3 but not

beyond the scope of the case made out in the writ petition.

It is made clear that, this order shall not create any equity or right in favour of the petitioner and the respondent no.3 shall be free to decide the issue strictly in accordance with law.

In the event the reasoned decision goes in favour of the petitioner, then the respective school authorities and the respondent no.3 shall take all further and consequential steps to give effect to the said reasoned order forthwith and positively within a period of three weeks from the date of the said reasoned order to be passed.

On the above terms this writ petition, **WPA 8891 of 2011** stands disposed of without any order as to costs.

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

(Aniruddha Roy, J.)