

Court No.
27.7.2023

(Item No. 10)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 9242 of 2013

+

C.A.N. 2 of 2019
(old No. CAN 3894 of 2019)

+

C.A.N. 4 of 2023

Namita Bera

VS

The State of West Bengal & Ors.

Mr. Arun Kumar Maiti
Mr. Kanailal Samanta
Ms. Kaberi Sengupta Mohanty
Mr. R. R. Mohanty
Ms. Komal Shaw
Mr. Samit Shaw
Mr. Syed Ali Afzal Chand
Mr. Shivam Saha
Ms. Snigdha Ghosh

..... for the petitioner

Mr. Biswabrata Basu Mallick

Mr. Pinaki Bhattacharyya

.... For respondent Nos. 1 to 3

Mr. Sanjib Kumar Das

Mr. Madhusudan Mukhopadhyay

.... For respondent Nos. 4 & 5

This is a hearing matter of 2013 upon affidavits.

At the out set it is submitted by Mr. Arun Kumar Maiti, learned counsel appearing for the petitioner that, **Prayer – (b)** to the writ petition has already been received by the petitioner. Therefore, no further grievance survives on **prayer – (b)** to the writ petition.

The petitioner claimed that, the petitioner was appointed as an **Assistant Teacher** at **Satashi High School (H.S.), District – Howrah** on **August 23, 1997**. Presently the petitioner upon transfer is

teaching at one **Sarada Charan Aryan Institution (H.S.), District – Kolkata**. On February 11, 2010 the petitioner was suspended by the then School authority. The suspension was followed by a charge sheet dated **March 24, 2010** at **pages 10-13** to the affidavit-in-opposition filed by the school authority. The petitioner replied to the charge sheet and ultimately after conducting the necessary enquiry proceeding by a decision dated **February 16, 2015** at **pages 7 to 10** of the supplementary affidavit filed by the petitioner affirmed on **October 13, 2015**, the West Bengal Board of Secondary Education exonerated the petitioner from all the charges. The relevant school authority preferred an appeal from the said order of exoneration passed by the Board on **October 21, 2019**. By an order dated **May 11, 2023** at **page 8** to the supplementary affidavit filed by the petitioner affirmed on July 10, 2023, the appeal preferred by the school authority was dismissed and the order of exoneration of the petitioner dated **February 16, 2015** was **upheld**.

Mr. Sanjib Das, learned advocate appearing for the School authority i.e. respondent Nos. 4 & 5 has not disputed the facts recorded above. However, he on instruction from his client submitted that, the School authority by a letter dated **June 3, 2023** had applied to the respondent No. 2 seeking recalling of the decision dated May 11, 2023. However, such

document is not on record. It was a submission made from the bar.

Mr. Arun Kumar Maiti, learned counsel appearing for the petitioner submitted that, pursuant to a direction made by this Court on **January 25, 2023** the School authority had already deposited a sum of **Rs.7,75,752/-** with the learned Registrar General of this Court and the same is lying in her custody. The learned counsel for the petitioner submitted that, the only relief now claimed by the petitioner is to the extent of the relief claimed in **prayer – (a)** to the writ petition. **Prayer – (a)** from the writ petition is quoted below:

“(a) A Writ of Mandamus commanding the respondents and each one of them to forthwith pay the arrear salaries of Rs.64,758/- plus interest accrued thereon to the petitioner in compliance of the order dated 14.12.2010;”

Learned counsel further submitted that, the quantum mentioned in **prayer (a)** being **Rs.64,758/-** was till the date of filing of the writ petition in 2013 and the quantum has increased as on date.

Mr. Biswabrata Basu Mallick, learned Additional Government Pleader appeared for respondent Nos. 1 to 3.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, since the petitioner has been exonerated in the disciplinary proceeding and no fetter being there

any further, the respondent No. 3 is directed to quantify the claim of the petitioner up to date in terms of **prayer (a)** to the writ petition as quoted above positively within **three weeks** from the date of communication of this order while calculating such amount the respondent No. 3 must take into account as if there was **no disciplinary proceeding suffered by the petitioner during her employment career** and whatever benefits due and payable to her strictly in accordance with law till today, must be paid to her along with interest @ 8% per annum from the date of first exoneration order dated **February 16, 2015**.

It is also made clear that, all other and further consequential benefits receivable by the petitioner strictly in accordance with law, as if there was no disciplinary proceeding in her service tenure till today, shall be taken into account and paid to the petitioner with interest as directed above.

The necessary payment shall be made after adjusting the amount deposited with the learned Registrar General of this Court together with the accrued interest thereupon.

It is made clear that, the amount that becomes due and payable after deducting the deposited amount lying with the learned Registrar General of this Court with accrued interest shall be paid to the petitioner by the respondent No. 3 and/or any other authority positively within a further period of **three**

weeks from the date of the completion of such calculation by the respondent No. 3 as directed above.

Upon production of this order before the learned Registrar General where the petitioner shall be accompanied by her advocate on record, the learned Registrar General upon verification of the identification of the petitioner by producing necessary identification documents by way of an affidavit to be filed by the petitioner and shall be forwarded to the learned Registrar General by a forwarding letter to be signed by the learned advocate on record for the petitioner, shall release the amount with accrued interest to the petitioner in an expeditious manner.

On the above terms, this writ petition being **W.P.A. 9242 of 2013** with all connected applications stand disposed of, without any 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.)