

27 16.6.2023
Sc Ct. no.22

WPA 8928 OF 2015

Abhijit Mandal

Vs.

The State of West Bengal & Ors.

Mr. Tarun Kumar Das

....For the Petitioner

Mr. Supriyo Chattopadhyay

Mr. Sabyasachi Mondal.

....For the State

The petitioner claimed to be an Assistant Teacher at present at ***Banihari High School (H.S.), District – Dakshin Dinajpur.*** Previous to this school, the petitioner was in ***Rajua Sakhi Sundari High School, District – Dakshin Dinajpur.***

While transferred from the said ***Rajua Sakhi Sundari High School, District – Dakshin Dinajpur,*** the petitioner's ***Service Book*** and all details and particulars regarding Provident Fund and all other service benefits were not sent to his present school as well as the petitioner claimed some arrear salary. The petitioner made a representation before the said previous school, viz. ***Rajua Sakhi Sundari High School, District – Dakshin Dinajpur*** on ***March 19, 2015, Annexure-P10 at page 34*** to the writ petition.

The petitioner had received information that, the said previous school had sent the necessary record and information before the respondent no.3 pursuant to an

interim order passed by a coordinate Bench on May 8, 2015 and, thereafter, the respondent no.3 had granted the relief to the petitioner save and except with regard to the claim on arrear salary on the ground that, the respondent no.3 wanted certain clarifications from the previous school authority and as such, returned the same with queries before the previous school authorities. The matter stuck at this stage.

Mr. Tarun Kumar Das, learned advocate appearing for the petitioner claimed that, apart from this arrear salary the other claims of the petitioner stood satisfied.

Mr. Supriyo Chattopadhyay, learned Additional Government Pleader appeared for the respondent nos. 1 to 4.

Considering the submissions made on behalf of the parties and considering the materials on record and considering the claim of the petitioner being an age old one, to subserve justice, the petitioner is granted liberty to make a comprehensive representation making his claim only to the extent of arrear salary and not beyond that as claimed by the petitioner, on instruction, receivable by him out of his employment in the previous school within a period of two weeks from date. It is once again made clear that, the representation shall not travel beyond the claim of the arrear salary.

In the event such a representation is submitted before the respondent no.3, it shall issue a prior hearing

notice of at least seven days to the petitioner and the respondent no.6 and after hearing them shall pass a reasoned order in accordance with law.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner insofar as his arrear salary is concerned and the petitioner and the respondent no.6 shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3 so that, the respondent no.3 can take a reasoned decision on the payability of the arrear salary to the petitioner.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 within a period of ten weeks from the date of receiving the representation from the petitioner. The respondent no.3 shall communicate its reasoned decision to the petitioner and the respondent no.6 within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that, this order shall not create any equity or right in favour of the petitioner and the petitioner will be entitled to a relief to the extent he will be eligible strictly in accordance with law.

In the event the reasoned decision goes in favour of the petitioner then the respondent no.3 and all other appropriate State authority shall take all consequential

steps in accordance with law positively within a further period of four weeks from the date of communication of the reasoned order to be passed.

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

On the above terms this writ petition, **WPA 8928 of 2015** stands disposed of, without any order as to costs.

Since the respondent no.6 is not represented, the petitioner shall serve a copy of this order along with a copy of his comprehensive representation to the respondent no.6 forthwith.

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

(Aniruddha Roy, J.)