

12.05.2023
(S/L-1)
Ct.-18
(P. Jana)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**WPA 10339 of 2022
Achira Halder
-versus-
The State of West Bengal & ors.**

Mr. Jayanta Samanta,
Mrs. Karunamoyee Samanta,
... for the petitioner.

Mr. Rabindra Narayan Dutta,
Mr. Hare Krishna Halder, ... for the State.

Mr. Sayantan Hazra,
... for the Headmaster/respondent no. 6

The petitioner is working as an Assistant Teacher at
Malda Railway High School, District - Malda.

The petitioner exercised option for fixation of her pay
under the West Bengal (ROPA) Rules, 2019. The petitioner
is alleging that although she opted for such fixation of pay
on and from July 01, 2017, but the school authority, while
uploading the prescribed option form on the designated
portal, erroneously input the said date as January 01, 2016.

The school authority, in response to the application of
the petitioner, requested the District Inspector of Schools
(SE), Malda, the respondent no. 5 herein, to carry out
necessary correction in the said option form.

The petitioner, aggrieved by the delay in disposal of
the said request, filed a writ petition being WPA 67 of 2021
which was disposed of by the learned Single Judge vide
order dated February 08, 2021 with a direction upon the
Commissioner of School Education, West Bengal, the

respondent no. 3 herein, to take a decision on the issue within a period of six weeks from the date of the said order.

In terms of the aforesaid direction, the respondent no. 3, by the Office memorandum bearing Memo No. IC/22/LS/2021 dated December 22, 2021 has disposed of the said issue by refusing to correct the said date of option holding inter alia that there is no provision in the ROPA Rules, 2019 to change the date of option and the said respondent has no authority to allow any incumbent to change any date of option.

The said Memorandum is under challenge in the present writ petition.

Mr. Jayanta Samanta, learned counsel for the petitioner submits that admittedly, the school authority, while uploading the prescribed option form in the portal, has committed the mistake in putting the date of option, the petitioner cannot suffer for such mistake of the school authority. He refers to a memorandum issued by the District Inspector of Schools (SE), Bankura annexed with the writ petition to contend that such correction, as prayed for, is permissible.

Mr. Dutta, learned counsel for the State-respondents, on the other hand refers to the Memorandum of the Government of West Bengal, School Education Department, Planning and Budget Branch bearing Memo No. 437-SE(P&B)/SL/5S-408/19 dated December 13, 2019 which has been annexed with the report filed by the respondent no. 3 to contend that the option once exercised shall be final and it cannot be altered.

In compliance with the direction passed by this Court on April 11, 2023, Mr. Dilip Chakraborty, the Headmaster of the Malda Railway High School, District - Malda, the respondent no. 6 herein, is personally present before this Court. He is represented by Mr. Sayantan Hazra, learned advocate.

Mr. Hazra submits that as directed by this Court, his client has brought the service book of the petitioner but the original option form since is not available with the school, he has brought a photocopy thereof downloaded from the Portal. He further submits that there was a mistake on the part of the school to upload the correct date of option exercised by the petitioner.

Heard the learned counsel for the parties and perused the materials-on-record.

It appears from the Service Book of the petitioner that 18 years of service benefit has been given to the petitioner.

It is an admitted position that the school authority, while uploading the prescribed option form of the petitioner in the designated Portal has committed an error in putting the correct date of option exercised by the petitioner, therefore this is not a case of change of date of option but correction of wrong input uploaded by the school authority, as such the Memorandum dated December 13, 2019 relied on by Mr. Dutta has no application in the facts and circumstances of the present case.

That apart, the memorandum bearing Memo No: 839/S dated June 16, 2020 issued by the District Inspector of Schools(SE), Bankura is appearing at page 63 of the writ

petition, being Annexure 'P-4', whereby the said District Inspector of Schools has instructed all the Headmasters of the said district to send the documents mentioned in the said memorandum for rectification of ROPA, 2019 pay fixation. This memorandum signifies that the correction, as prayed for, is permissible.

In view of the discussion made above, the impugned memorandum is not sustainable and is accordingly set aside.

The Commissioner of School Education, West Bengal the respondent no. 3, is directed to put **July 01, 2017** as the date of option exercised by the petitioner in the prescribed form for fixation of her pay under ROPA Rules, 2019 within two weeks from the date of communication of this order.

WPA 10339 of 2022 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)