

02.08.2023  
SL No.41  
Court No.8  
(gc)

**FMA 132 of 2022  
CAN 1 of 2022  
CAN 3 of 2022**

**The Headmaster,  
Mahishadal Raj High School  
Vs.  
Dr. Kanika Rani Sahoo & Ors.**

1. The appellant is not represented, nor any accommodation is prayed for on behalf of the appellant.
2. The matter was adjourned earlier in order to enable the appellant to obtain necessary instruction. It appears that the Coordinate Bench on 8<sup>th</sup> June, 2022 passed an order directing the Principal Secretary, School Education Department, Government of West Bengal to furnish a detailed report in order to obtain a clear and unambiguous view of the events being perpetrated at the level of the school authorities after examining the documents and affording an opportunity of hearing to the concerned parties. The Principal Secretary has filed a report. The appellant has filed an exception to the said report. In order to appreciate the objection raised in the exception against the report, it is necessary

to tabulate the findings of the Principal Secretary as it appears from its report. After examination of the claim of the writ petitioner, the relevant documents produced by the Headmaster and the pleadings, the Principal Secretary arrived at the following findings:-

| Issues                                                   | Findings                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| Fixing up her pay scale according to ROPA 2019           | <p>ROPA’ 2019 (Vide Memo No.437-SE (P&amp;B) dated 13.12.2019) is applicable to those employees of the aided/sponsored institutions holding substantive/officiating posts as on 01.01.2016.</p> <p>The appellant Headmaster failed to produce any cogent documents in support of alleged disputed testimonial and service records and court cases which at all prohibit him to take steps for pay fixation of the petitioner/Respondent No.1.</p> <p>As such petitioner/Respondent No.1 may be entitled to get the pay fixation benefit under ROPA’ 19 as per Memo No.437-SE(P&amp;B) dated 13.12.2019 (ROPA’ 19).</p> |
| Grant of 20 years benefit with effect from July 1, 2020. | <p>As per para 11(2) of the ROPA’ 19, employees will get benefit of only 1(one) increment in the same Level of Pay upon completion of every 10 years continuous satisfactory service counted from the date of first appointment to the same post subject to maximum of 2 such increments during the whole career with the</p>                                                                                                                                                                                                                                                                                          |

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|                                                                            | approval of the competent authority, i.e. District Inspector of Schools (SE), Purba Medinipur. So, the petitioner/ Respondent No.1, subject to fulfillment of condition as mentioned therein, may be entitled the benefit of 20 years.                                                                                                                                                                                                                                                                                                   |
| Grant of yearly increment from July 1, 2020                                | As per para 10 of the ROPA' 19, in respect of all employees, there shall be uniform date of annual increment, as existing and such date of annual increment shall be the 1 <sup>st</sup> day of July every year.<br>So, after fixation of pay under ROPA' 19, the petitioner may be allowed annual increment as per existing norms.                                                                                                                                                                                                      |
| Refund of Rs.9,480/- deducted from her salary for the Month of June, 2012. | It appears from A/O (vide paragraphs 13, 14 and annexure O-16 of the A/O) filed by the petitioner/Respondent No.1 in FMA 132 of 2022 that she has refunded the said amount as per direction of the Hon'ble High Court Order dated 21.02.2014 passed in MAT 1311 of 2012. The school authority although filed Review petition No.130 of 2014 against the Order dated 21.02.2014 passed in MAT 1311 of 2012. The review petition has not yet been disposed of. So, her claim for recovery of Rs.9,480/- may not be permissible as per Law. |
| Preparation & Update of Service Book                                       | The petitioner/Respondent No.1 applied for Maternity leave to the School authority. The School authority sanctioned the maternity leave in her favour recording the Date of Birth of her child as 19-02-2000 but during her application for Child Care Leave (CCL) in the year 2016 she produced a birth certificate wherein Date of                                                                                                                                                                                                     |

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|  | <p>Birth of her child namely Upasana Sahoo was recorded as 17-06-2002. School denied to sanction CCL. Against the denial, petitioner/Respondent No.1, petitioner moved WP 30004(W) of 2016.</p> <p>The DIS (SE), Purba Medinipur in compliance with the order dated 22.12.2016 passed by the Hon'ble High Court in WP 30004(W) of 2016, directed the school authority for sanctioning CCL in favour of the petitioner/Respondent No.1.</p> <p>The issue, related to sanction of Child Care Leave of the petitioner/Respondent No.1 is a settled one as per order of the Hon'ble High Court dated 22.12.2016 passed in W.P. 30004(W) of 2016. Hence, there is no impediment in preparation of service Book of the petitioner/Respondent No.1 by the school authority.</p> <p>It will not be out of place to mention here that the Hon'ble High Court vide order dated 21.02.2014 passed in MAT 1311 of 2012 was inter-alia pleased to direct the District Inspector of Schools and School authority to prepare the service book of the petitioner/Respondent No.1.</p> |
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3. In fact, the Coordinate Bench in its order dated 8<sup>th</sup> June, 2022 had directed the Principal Secretary to consider the pleadings in the appeal as well as the writ petition in deciding the matter.

4. We do not find any affidavit filed on behalf of the Headmaster of School taking exception to the said report or confronting any of the findings made by the Principal Secretary in his report. The report has clearly suggested the entitlement of the writ petitioner.
5. Under such circumstances, we upheld the order passed by the learned Single Judge.
6. We dismissed the appeal.
7. Accordingly, the appeal and the connected applications stand dismissed.
8. The appellant shall comply with the directions of the learned Single Judge within four weeks from date.
9. However, there shall be no order as to costs.
10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**