

05 11.8.2023  
Sc Ct. no.22

**WPA 12242 OF 2023**

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Sibsankar Das & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya  
Mr. Bidhan Biswas  
Mr. Tapas Chatterjee.

....For the Petitioners

Mr. Arindam Chattopadhyay  
Ms. Lipika Chatterjee.

....For the State

Md. Sarwar Jahan  
Mr. S. N. Thander  
Mr. Asif Mehedi.

....For the Respondent  
No.4

There are two individual writ petitioners in a single writ petition. Though the legal issue may be common but the causes of action are definitely different and separate from each other and are independent in nature. Thus, the two petitioners have to pay their individual court fees on this single writ petition in accordance with law.

Mr. Kamalesh Bhattacharya, learned counsel appearing for the petitioners ***undertakes to pay*** such individual court fees by the two petitioners and since one has already paid, ***the other one shall pay in accordance with law and subject to that, this order shall be effected.***

The petitioners were engaged as ***Samprasarak in diffierent Madhyamik Siksha Kendras (MSKs) for a***

*period of one year and in that regard agreements were executed between them.* Thereafter, by the subsequent agreements between them, their engagements were **renewed** from **time to time**.

By a notification dated **May 2, 2008** issued by the **Department of Panchayats and Rural Development, Government of West Bengal**, the **upper age limit** to continue as Samprasarak/Samprasatika of MSKs was **enhanced to 65 years**, instead of 60 years.

With regard to a notification dated **December 18, 2019**, issued by the **School Education Department, Elementary Education Branch, Government of West Bengal**, the **administrative control** of Sishu Siksha Kendras (SSKs) and Madhyamik Siksha Kendras (MSKs) was entrusted to the **School Education Department, Government of West Bengal**. By the said notification, it was stated therein that, Samprasaraks/Samprasarikas who were within the age of **60 years on April 1, 2020**, would be required to give their option in the prescribed format by **February 1, 2022** for treating them at par with the School Education Department. As per the notification, they would remain engaged with similar terms and conditions as that of para-teachers to get the similar benefits extendable to them.

The petitioners submitted that, though they exercised their option, but no benefit was extended to them which are admissible to the para-teachers. Under

such circumstances, the petitioners seek directions upon the respondent authorities so that they may be ***reverted to their previous status of Samprasarak and be allowed to continue their services till the age of 65 years.***

Learned counsel for the petitioners submitted that, the petitioners were allured by the aforesaid notification dated ***December 18, 2019*** that, they would get the benefit of ***Employees Provident Fund (EPF) as was admissible to the para-teachers.*** But, since they exercised option, no benefit of ***EPF*** was granted to them. Learned counsel also submitted that, if the option exercised by them subsists, his clients would have to retire at the age of 65 years. He emphasized that, the petitioners be reverted back to the previous status and be allowed to continue their services as Samprasarak till the age of 65 years. In such context learned counsel informs the Court that, the petitioners have already retired after attaining the age of 60 years and as such, he submitted that, the petitioners be allowed to join their services and continue their services till the age of 65 years.

On the other hand, learned counsel representing the ***Mission Director, Paschim Benga Rajya Sishu Siksha Mission***, the fourth respondent herein, submitted by referring to a recent ***memo dated March 1, 2023*** that, the Mission Director will have no objection if the petitioners are allowed to continue their services up to the

age of 65 years. He further submitted that, till date the authority has not extended any additional benefit to Samprasarak/Samprasatika at par with the para-teachers except granting the terminal benefit of Rs.3,00,000/-. He also submitted that, in the aforesaid memo dated **March 1, 2023**, it has been stated therein that, engagement of Sahayaks/Sahaikas has been stopped since **2012**. Learned counsel, based on this memo, submitted that, the authority concerned has no objection if the Samprasarak/Samprasatika are reverted back to their previous status, provided they will not claim any benefit that are given or may be given in future to them treating at par with the para-teachers including Rs.3,00,000/- as terminal benefit. Learned counsel informed the Court that, the memo dated **March 1, 2023** which was addressed to the Additional Secretary, Government of West Bengal has not yet been responded to.

Having heard learned counsel for the parties and considering the materials on record, especially the relevant Government notifications, this Court thinks it fit that the writ petition be disposed of by passing the following directions.

The respondents concerned are directed **to revert back the petitioners to their previous status of Samprasarak** from the status **at par with para-teachers** and allow them to maintain such status

***treating the option*** exercised by them as ***cancelled/withdrawn immediately.***

The ***petitioners are permitted to continue their services as Samprasarak up to the age of 65 years.***

The respondents concerned are directed to ***allow the petitioners to join their services as Samprasarak*** and ***continue their services till the age of 65 years treating their services as continuing one*** immediately.

It is made clear that, the ***petitioners will not be allowed to claim the benefits as admissible to the para-teachers.***

With the aforesaid directions the writ petition, ***WPA 12242 of 2023*** stands ***disposed of***, without any order as to costs.

The parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

**(Aniruddha Roy, J.)**