

25.09.2023
Item No.22
Court No.18
A.J.

W.P.A. 13596 of 2022

Khalip Ansary

-Vs-

The State of West Bengal & Ors.

Mr. Sougata Mitra,
Mr. Rameswar Sinha,
Ms. Soma Chakraborty,
Mr. Subhadeep Maitra,
Mr. Avishek Banerjee.

.....for the petitioner.

Mr. Biswabrata Basu Mallick, A.G.P.,
Mr. Sanjib Das.

.....for the State.

The petitioner was a Group-D Staff of Shitalpur High School (H.S.), District: Purulia. He was found guilty in a criminal case being Sessions Case No. 15 of 1989 and was imposed with the punishment for imprisonment of life and to pay a fine of Rs.10,000/-.

In the appeal pending before this Court, the aforementioned sentence has been suspended. The petitioner was taken into custody in connection with the said criminal case and upon release on bail he rejoined his duty on September 16, 2007. He being superannuated has retired from his said service on March 31, 2022.

The petitioner is now praying disbursement of his retiral benefits including pension.

The District Inspector of Schools (S.E.), District : Purulia, the respondent no.2 herein has filed a report as directed by this Court to

which Mr. Mitra, learned advocate for the petitioner files exception today.

The respondent no. 2 in his report has opined that since the order of punishment has yet to attain finality, the prayer of the petitioner cannot be considered.

Mr. Mitra placing reliance on the following decisions of the different Co-ordinate Benches of this Court submits that unless the offence is relatable with the service of the employee or unless it is proved that for such offence, the Government has suffered financial loss, the prayer of an employee for disbursement of his retiral benefits cannot be denied on the ground of his involvement with such offence:-

1. **Gunamay Mahato -Vs- State of West Bengal & ors.** reported in **2015 SCC on line CAL 7503.**
2. **Niranjan Mahato -Vs- State of West Bengal & Ors.** reported in **2023(1) CHN (CAL) 539.**
3. **Anadi Prasad Mahato -Vs- State of West Bengal** reported in **2014(2) CHN (CAL) 103.**
4. **Prafulla Chandra Mahato -Vs- State of West Bengal & Ors.** in **W.P. 9890(W) of 2015** (unreported, decided on **July 09, 2015**).

Having heard the learned counsel for the parties and on perusal of the records, it appears

that the criminal proceeding in which the petitioner has been found guilty has no nexus with his service and there is nothing on record to suggest that on the commission of such offence, the Government has suffered financial loss as such the prayer of the petitioner for disbursement of his retiral benefits cannot be deferred till the decision of the said appeal against the order of conviction, particularly when the sentence imposed upon the petitioner has been suspended by the appeal Court.

The prayer of the petitioner gets support of the decisions cited by Mr. Mitra.

The respondent no.2 being the pension sanctioning authority is therefore directed to process the pension papers and to take forward steps for disbursement of the retiral benefits of the petitioner in accordance with law.

In the event the claim of the petitioner is found to be admissible, he is at liberty to apply for interest on the arrear pension.

W.P.A. 13596 of 2022 is thus disposed of without any order as to costs.

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

(Biswajit Basu, J.)