

09.08.2023
SL No.55
Court No.8
(gc)

**FMA 976 of 2022
CAN 1 of 2022**

**Uttam Kumar Giri
Vs.
The State of West Bengal & Ors.**

Mr. Samiran Giri,
...for the Appellant.
Mr. Pinaki Dhole,
Mr. Pinaki Bhattacharyya,
...for the State.

1. The appeal is arising out of an order dated 8th June, 2022. The grievance of the petitioner is that he was not allowed increments in pay for the period from June 29, 2009 till August 12, 2009, during which he remained absent from duties. It is contended on behalf of the petitioner that he was allowed to resume duties after his service was regularized pursuant to several orders of a Coordinate Bench of this Court, namely, July 2, 2010, passed in WP 9002(W) of 2010, April 5, 2012, passed in WP 18651 (W) of 2011 and February 18, 2013, passed in WP 2455(W) of 2013. The contention of the petitioner that he was unable to attend duty due to political disturbance was not accepted by the authority due to lack of evidence.

2. The learned Single Judge has recorded that the petitioner could not produce any complaint lodged with the police as regards disturbance. The school was found to function normally during the said period.
3. We have enquired from the learned Counsel for the appellant that whether any FIR was lodged with the Police or there has been any refusal on the part of the Police to register the FIR and in the event of such failure on the part of the Police whether any application under Section 156(3) of the Cr.P.C., we could not find any satisfactory answer.
4. The learned Single Judge has recorded that the petitioner's service, however, was regularized and his absence from school was condoned under Rule 7 of Leave Rules and Section 28(2) read with Sub-Section (b) of Section 50 of the West Bengal Board of Secondary Education Act, 1963.
5. In absence of any satisfactory explanation offered for not joining the duty for the period from 2009 to 2013, we do not find any reason to interfere with the order passed by the learned Single Judge.
6. Accordingly, the appeal and the application stand dismissed.

7. However, there shall be no order as to costs.

8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)