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Ct-08

MAT 1149 of 2022

The Director of Pension,
Provident Fund & Group Insurance,
Government of West Bengal
Vs.
Dipali Banerjee & Ors.

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with

MAT 14 of 2023

The Director of Pension,
Provident Fund & Group Insurance,
Government of West Bengal
Vs.
Sarwari Begam & Ors.

with

MAT 15 of 2023

The Director of Pension,
Provident Fund & Group Insurance,
Government of West Bengal
Vs.
Ratna Chowdhury & Ors.

Mr. Bhaskar Prasad Vaisya, Ld. AGP
Mr. Arindam Chattopadhyay
... For the Appellant
in MAT 1149 of 2022

Mr. Bhaskar Prasad Vaisya, Ld. AGP
Mr. Ranjan Saha
... For the Appellant
in MAT 14 -15 of 2023

Mr. Tarapada Das
Mr. Chandan Dutta
Mr. Gautam Malik
Ms. Jonaki Khan
... For the Writ Petitioner/
Respondent no. 1
in all the three appeals

1.By consent of the parties the appeals are
taken up together as all the appeals involved
common question of law and facts and disposed

of by this common order.

2. We have heard the learned counsel appearing for the parties.

3. Briefly stated in the writ petition that the writ petitioners here were primary teachers in primary schools which were controlled and run by the Asansol Municipal Corporation, in short Municipality. On 31st August, 1998 the Municipality handed over the primary schools which were run by the Corporation to District Primary School Council, Burdwan along with assets and teachers working in those schools. The writ petitioners admittedly were working in primary schools at the relevant point of time before taking over by DPSC, Burdwan.

4. Consequent upon handing over of those primary schools, the writ petitioners became primary teachers under DPSC, Burdwan and the schools, where they were working before their superannuation, were admittedly started by the DPSC.

5. The issue arose with regard to the fixation of retiral benefits consequent upon their service being transferred to schools managed by the DPSC, Burdwan.

6. Learned Single Judge had considered the claim of the petitioners on the basis of

Government Circular dated 21st November, 2003 and the order passed by Justice Rajasekhar Mantha in WP 12195(w) of 2016 (Md. Ghulam Rabbani Vs. State of West Bengal & Ors.) on 3rd January, 2020 in granting reliefs to the petitioners.

7. The writ petitioners challenged the Government Circular dated 21st November, 2003. Learned Single Judge did not interfere with the said order. However, consequent upon the conditions laid down in the said Government Circular it is only natural that the writ petitioners would be entitled to revision of pay under ROPA Rules applicable prior to transfer of the schools to DPSC, Burdwan and that precisely was directed by the learned Single Judge, which would be evident from the following observations of Justice Saugata Bhattacharyya:-

“However, it has been clarified that considering the date of retirement of the petitioner on 31st March, 2001 she is entitled to get the benefit of ROPA 1998 while calculating the pension of the petitioner since such ROPA Rules became effective notionally from 1st January, 1996 and actual benefit was extended in favour of the teachers with effect from 1st April, 1997. If

while issuing pension payment order upon settling the pension case of the petitioner benefit of ROPA 1998 has not been extended in that event concerned respondent authority is required to issue fresh pension payment order by extending the benefits under ROPA 1998 within a period of eight weeks from the date of communication of this order. While 8 considering the entitlement of the petitioner to receive the benefits of ROPA 1998 the decision of the coordinate Bench dated 3rd January, 2020 passed on W.P. 12195(W) of 2016 (Md. Ghulam Rabbani-vs- The State of West Bengal & Ors.) is relied upon.”

8. We are at a loss to understand why the State has preferred the appeal against the said judgment. It is effective for implementation of the Government Circular dated 21st November, 2003 and the consequential benefits that are to be followed on the basis of the said circular. Justice Bhattacharyya did not set aside the Circular dated 21st November, 2003.

9. Mr. Bhaskar Prasad Vaisya, Ld. AGP appearing on behalf of the appellant/State, has submitted that the direction of the learned Single Judge with regard to the calculation of the retiral benefits upon revision of pay scale with effect from 1st January, 1996 till the superannuation of

the writ petitioner has been carried out and it has been paid.

10. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.

11. In view of the aforesaid order the above appeals being MAT 1149 of 2022, MAT 14 of 2023 and MAT 15 of 2023 stand dismissed.

12. There will be, however, no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)

