

43 09.8.2023

Ct-08

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FMA 304 of 2022

with

I.A No. CAN 1 of 2021

CAN 2 of 2023

Jhilka Banerjee

Vs.

State of West Bengal & Ors.

Mr. Jayanta Mitra

... For the Appellant

Ms. Pallavi Chatterjee

...For the Respondent no. 4

Ms. Biswabrata Basu Mallick, Ld. AGP

Mr. Sanjib Das

... For the State

1. By consent of the parties the appeal and the applications are taken up together and disposed of by this common order.

2. The Teacher-in-charge of the school is personally present with “no liability certificate”.

3. From the nature of the breakup of expenditure of the amount Rs.80650/-, we are of the view that if the Headmistress of the school was genuine in her intention to resolve the dispute, she could have easily verified the said amount, appearing at page 31 of the CAN 1 of 2021, since it appears from the said page that the payments were made to the Electricity Authority, auditor, S. Noori & Co., the remuneration paid to the part time staff for the month of October and November, 2019 and T.A bills. The Headmistress

has not denied that school was enjoying electricity from WBSEDCL, payment of the auditor's fee, the part time employees who were paid remuneration and T.A bills. It shows that the appellant has clearly furnished the payment details with the relevant dates. These are all ascertainable and there is no doubt about payment being made

4. Under such circumstances, the Headmistress, the respondent no. 4, is directed to immediately submit the "no liability certificate" with the Director of Pension, Provident Fund and General Insurance, Government of West Bengal and not later than two weeks from date. We are satisfied with the documents furnished by the writ petitioner for the purpose of release of her pension, gratuity and commuted value of pension.

5. The school authority must take the responsibility of producing the expenditure statement produced by the writ petitioner as it appears to be genuine and the school is the custodian of all original records. The writ petitioner cannot be asked to produce the original vouchers of the expenses to the statutory authority.

6. The gratuity and commuted value of pension and the pension shall be released in favour of the writ petitioner from the date when she became eligible. The petitioner/appellant shall be entitled to gratuity with 7% interest p.a from the date when it was actually payable till the date of actual payment. The entire exercise shall be completed within four weeks from date.

7. The Teacher-in-Charge of Morepukur Saibalini Devi Balika Vidyaniketan, Sudeshna Paul Das, shall pay cost of Rs.5,000/- to the appellant for her unacceptable behavior.

8. The District Inspector of Schools (S.E), Hooghly shall not allow disbursement of salary to Sudeshna Paul Das, Teacher-in-Charge of Morepukur Saibalini Devi Balika Vidyaniketan till the submission of "no liability certificate" in favour of the appellant and payment of costs of Rs.5,000/-.

9. The entire exercise shall be completed by the Director of Pension, Provident Fund and General Insurance, Government of West Bengal within four weeks from date with regard to the gratuity and commuted value of pension and the pension of the petitioner.

10. On such consideration, the appeal

succeeds. The impugned order is set aside.

11. In view of the aforesaid order, the appeal being FMA 304 of 2022 is accordingly disposed of.

11. In view of disposal of the appeal nothing remains to be decided in CAN 1 of 2021 and CAN 2 of 2023 and the same are accordingly disposed of.

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

(Uday Kumar, J.)

(Soumen Sen, J.)

