

Ct. 08.02
No. 14 2023
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W.P.A. 18550 of 2022
Bina Neogi Mondal
-Versus-
The State of West Bengal & Ors.

Mr. Ziaul Haque **...For the Petitioner**
Mr. Rezaul Hossain **...For the State Respondents**
Md. Sarwar Jahan **...For the Respondent No. 4**

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the inaction of the respondent authorities in not considering her representation dated July 07, 2022 for continuance of her service as ‘Sahayika’ till the age of 65 years.

The writ petitioner was engaged as a ‘Sahayika’ in Kansarichak Mirpara Sishu Siksha Kendra under Patharpratima Block, District – South 24-Parganas in the year 2006. Her engagement was renewed upto the year 2010. Thereafter, in terms of Government Circular dated 23rd April, 2010 there was no need for renewal of the engagement and a Sahayika of any Sishu Siksha Kendra (SSK) could serve upto the age of 65 years.

By a Notification dated 18th December, 2019 issued by the Education Department, Government of West Bengal, Sahayaks / Sahayikas and Samprasarakhs / Samprasarikas were allowed to exercise their option to avail of the benefits available to Para Teachers. Some Sahayaks / Sahayikas exercised their options accordingly. But the petitioner did not exercise option to get the benefits available to a Para Teacher, but she exercised option to continue her engagement as Sahayika upto the age of 65 years. As she did not exercise option to avail of the benefits admissible to Para Teachers, she is to remain engaged upto the age of 65 years. But, the Executive Officer, Patharpratima Panchayat

Samiti, Ramganga, South 24-Parganas by Memo dated 15th December 2022 asked the petitioner to hand-over charge as a Sahayika on completing her age of 60 years.

The petitioner asserts that as she exercised no option to remain engaged upto 65 years to get benefits at par with a Para Teacher, she is entitled to serve as a Sahayika upto the age of 65 years.

From a list of Sahayika / Sahayaka and Samprasarak / Samprasarika prepared by the Executive Officer, Patharpratima Panchayat Samiti (Annexure 'P 5') it appears that the petitioner opted to remain engaged as Sahayika upto the age of 65 years.

From the documents on record it appears that the petitioner made representation to the Authorities concerned making appeal to them to allow her to remain engaged upto the age of 65 years as a Sahayika, but the Authorities concerned turned deaf ear to her appeal.

From the aforesaid list at Annexure 'P 5' it is quite evident that the petitioner did not exercise option to get benefits as available to a Para Teacher, rather she exercised option that she would remain engaged upto the age 65 years as Sahayika.

The bone of contention centres around the Memo dated 15th December, 2022 by which the Executive Officer, Patharpratima Panchayat Samiti asked the petitioner to hand-over charge after completing her age of 60 years on December 21, 2022.

Since, the petitioner exercised option to remain

engaged as Sahayika till the age of 65 years, her engagement should remain upto the age of 65 years.

In view of the above, the Memo dated 15th December, 2022 is vitiated with illegality.

Consequently, the writ petition merits success.

Accordingly, the writ petition is allowed on contest.

The Memo No. No. 1229/PS dated 15th December, 2022 issued by the Executive Officer, Patharpratima Panchayat Samiti, Ramganga, South 24-Parganas is hereby set aside.

The petitioner is allowed to continue her service as a Sahayika till the age of 65 years. The concerned Sishu Siksha Kendra shall allow the petitioner to continue her service accordingly.

It is made clear that if the petitioner has received any terminal benefits on attainment of the age of 60 years, the amount she received would be refunded to the concerned authority.

With the aforesaid directions the writ petition stands disposed of.

There will be no order as to costs.

All parties may act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat copy of the order, if applied for, be supplied to the appellant on priority basis on compliance of necessary formalities, on priority basis.

(Rabindranath Samanta, J.)