

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 19412 of 2021

(Gobinda Sarkar Vs. State of West Bengal & Ors.)

Mr. Prosenjit Mukherjee
Ms. Tiyasa Ghosh
.....For the petitioner

Mr. Biswabrata Basu Mallick
Mr. Sayan Ganguly
..... For the State

Ms. Saswati Chatterjee
..... For the West Bengal Board
of Secondary Education

Ms. Anamika Chatterjee
..... For the respondent nos. 6 & 12

The petitioner claims to be an **Assistant Teacher** presently working at **Mulajore Sitanath Pathsala (H.S.)** on transfer from his previous school, namely, **Naraindass Bangur Memorial Multipurpose School (Government Sponsored)**.

The petitioner suffered a criminal proceeding and was in custody for more than 48 hours some time in 2005. Finally in the criminal trial, the petitioner was acquitted by an order of acquittal dated July 12, 2006 by the jurisdictional criminal Court. The suspension of employment of the petitioner remained during the period from **August 10, 2005** to **August 28, 2006**. After acquittal, in law the petitioner is eligible to resume his employment and accordingly, his employment is resumed on and from August 29, 2006 at the present school, i.e., the respondent no. 9.

Mr. Prosenjit Mukherjee, learned counsel appearing for the petitioner referring to **Annexure P-6** to the writ petition submitted that though he was allowed to join, but his service book, **Annexure P-7** to the writ petition does not reflect the total period of suspension should be with an unblemished career record in view of the fact that the petitioner had been acquitted in the criminal trial honorably.

Mr. Biswabrata Basu Mallick, learned counsel appears for the respondent nos. 1, 2 and 3. Ms. Saswati Chatterjee, learned counsel appears for the respondent nos. 7 and 8 and Ms. Anamika Chatterjee, learned counsel appears for the respondent nos. 6 and 12.

In view of the above, to subserve justice, the **Secretary to the West Bengal Board of Secondary Education** is directed to consider the case of the petitioner in the light of the case made out and the documents relied upon by the petitioner in its writ petition upon giving a prior at least seven days notice of hearing to the petitioner, the respondent nos. 5, 6, 9 and 10 and then after hearing them, shall pass its reasoned order on the issue. The respondent no. 3 is specifically directed to render its every cooperation and assistance to the Secretary to the respondent no. 7 during hearing and if necessary, shall furnish whatever records and documents are sought for to decide the issue in accordance with law.

The entire exercise as directed above shall be carried out and completed by the **respondent no. 7** positively within a period of six weeks from the date of communication of this order. The Secretary then shall communicate its reasoned

order to the petitioner and all other relevant parties as directed above including the respondent no. 3 within a further period of two weeks from the date of the reasoned order to be passed.

It is made clear that this Court has not gone into the merit of the claim of the petitioner in any manner and the petitioner shall be at liberty to urge whatever point he wishes to urge by relying upon whatever records and documents he wishes to rely upon. The other respondents as directed above shall render all possible and necessary cooperation to the petitioner and shall assist the hearing authority.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

After the reasoned order to be passed as directed above, the same should be carried out and given effect to by the **respondent nos. 4, 5 and 6** positively within a further period of four weeks from the date of receipt of the said reasoned order from the Secretary to the respondent no. 7 and/or from the petitioner.

On the above terms, this writ petition being **WPA 19412 of 2021** stands disposed of, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)