

Court No. 22
22.02.2023
(Item No. 16)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 19560 of 2022

Uttam Kumar Chaudhuri
VS
The State of West Bengal & Ors.

Mr. Rudrail De
... for the petitioner
Mr. Biswabrata Basu Mallick
Mr. Sanjib Das
Mr. Madhusudan Mukhopadhyay
... for the State

The issue in this writ petition had already been settled in view of the order dated February 27, 2019, **Annexure P-11** at **page 116** as corrected on March 20, 2019, **Annexure P-12** at **page 122** to the writ petition and on **June 19, 2019, Annexure P-13** at **page 123** to the writ petition. The said orders were passed in a previous writ petition filed by the petitioner being **W.P. 25955 (W) of 2018**. The relevant portion from the parent order dated **February 27, 2019** is quoted below:

“In the view of the Court, it would be in the interest of the petitioner to have the pension amount and other retirement benefits disbursed expeditiously. The school, being the respondent No. 7, is accordingly directed to send the pension papers to the D.P.P.G. within a period of a fortnight from date. The calculation of the petitioner’s retirement benefits would be in accordance with the Statement of fixation of pay (point No. 7 thereof) which is Rs.29,950/- taking

into account the 3% increment on existing basic pay as mentioned in the said statement. The Pension Sanctioning Authority will disburse the pension and retirement benefits to the petitioner within a week after the said papers are received by the Pension Sanctioning Authority.

The W.P. 25955(W) is disposed of with the above directions.”

Finally by way of correction under an order dated **June 19, 2019** the quantum was corrected as **Rs.29,900/-** at **page 123** to the writ petition.

None of these orders were challenged by the respondent authorities. These orders had acquired a binding character upon the parties including the respondent State authorities.

Pursuant to the direction made by this Court on November 28, 2022 as corrected on December 13, 2022 in this writ petition the respondent No. 2 had passed a reasoned order dated January 16, 2023 which is made part of an affidavit in compliance affirmed on behalf of the respondent No. 2 on February 10, 2023.

On a close scrutiny of the said reasoned order dated **January 16, 2023** it appeared that, the entire calculation was made **not in compliance** with the decision in the earlier previous writ petition as referred to above.

In view of the above, the said impugned order passed by the respondent No. 2 **dated January 16,**

2023 stands set aside and quashed. The respondent No. 2 shall revisit the issue in so far as the calculation part is concerned taking into consideration of the observation made by the co-ordinate bench in the previous writ petition in its order dated **February 17, 2019** at **page 116** as quoted above in the light of the correction made by the co-ordinate bench in its order dated June 19, 2019 at **page 123** to the writ petition.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 2 positively within a period of four weeks from the date of communication of the order.

The respondent No. 2 shall be at liberty to call upon the petitioner if it thinks fit for necessary assistance and in such event, the petitioner shall be at liberty to appear before the respondent No. 2 either by himself or through his duly authorized representative. In the event, the presence of the petitioner is required, he shall be intimated at least three days in advance by the respondent No. 2.

The reasoned decision to be taken by the respondent No. 2 shall be communicated to the petitioner and also to his authorized representative positively within a period of two weeks from the date of passing of the same. After passing the reasoned order the respondent No. 2 shall take all necessary

and consequential steps to give effect thereto forthwith.

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

On the above terms, this writ petition being **WPA 19560 of 2022** stands disposed of.

There shall, however, be no 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.)