

W.P.A. 23153 of 2017

**Smt. Dalia De
Vs.
The State of West Bengal & Ors.**

**Mr. Anil Kr. Chatterjee
Mr. Dinesh Pani
....for the petitioner**

**Mr. Biswabrata Basu Mallick
Ms. Sangeeta Roy
...for the State**

**Mr. Bapin Baidya
...for the School**

Today, at the time of consideration of the writ petition Rajendra Sikshasadan Girls' High School, Kolkata (hereinafter referred to as the 'said school') is represented by Mr. Bapin Baidya, learned advocate who has placed before this Court the relevant portion of the service book of the petitioner and placing reliance on the service book of the petitioner he has submitted that at the time of superannuation of the petitioner on 31st July, 2016 petitioner had 208 days leave considering the length of the service as an assistant teacher with effect from 6th March, 1981.

In the same breath it has also been submitted by the learned advocate for the said school authority that 16 days' leave which petitioner availed of in 1997 can be sanctioned in consideration of leave available to the

petitioner which would result in upward re-fixation of retiral dues of the petitioner including pension. It has also been admitted on behalf of the said school authority that at the time of preparation of pension papers of the petitioner this 16 days' period for which half average pay leave was not sanctioned was treated as unauthorized leave which also emanates from the relevant portion of the service book of the petitioner as a result whereof this period of 16 days was considered as break in service.

Mr. Biswabrata Basu Mallick, learned advocate representing the State-respondents submits that due to want of sanction of 16 days' half average pay leave the State-respondents could not settle the pension case in favour of the petitioner upon regularizing such leave since it is the school authority which is authorized in terms of the Leave Rules to sanction such leave.

Same view has been echoed by the concerned authority of the West Bengal Board of Secondary Education while issuing memo dated 28th October, 1998 in response to the approach made on behalf of the said school authority relating to sanction of leave.

In view of availability of leave of the petitioner on the date of her retirement on 31st July, 2016 the said school authority including its teacher-in-charge being the respondent nos. 7 & 8 are directed to sanction 16 days' half average pay leave in favour of the petitioner within 48 hours from date and forward the decision of

sanctioning leave along with necessary papers relating to the service of the petitioner to the office of the District Inspector of Schools (S.E.), Kolkata within 48 hours thereafter.

The concerned District Inspector of Schools in receipt of such papers and decision from the said school authority shall do the needful for issuance of revised Pension Payment Order on compliance of formalities upon treating the length of service of the petitioner with effect from 6th March, 1981 till 31st July, 2016 as continuous and revise the retiral dues including pension accordingly. The concerned District Inspector of Schools being respondent no. 5 shall complete the formality and issue Pension Payment Order within a period of 4 (four) weeks from the date of receipt of decision and the papers from the said school authority on settling the pension case of the petitioner finally and release benefits which would be payable to the petitioner on revision of pension. The Director Pension Provident Fund and Ground Insurance being respondent no. 4 and the concerned Treasury Officer being respondent no. 6 are directed to extend necessary cooperation.

With the aforesaid directions, the writ petition stands disposed of.

The copies of relevant portion of the service book of the petitioner are kept with the record.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)