

07.12.2023
SI No.3
Court No.8
(gc)

**MAT 1776 of 2023
CAN 1 of 2023**

**Bhim Mondal @ Bhim Chandra Mondal
Vs.
The State of West Bengal & Ors.**

Mr. K.M. Hossain,
Mr. Kartik Kumar Ray,
Ms. Keya Sutradhar,
Mr. K. Ali

...for the Appellant.

Mr. Biswabrata Basu Mallick, A.G.P.,
Mr. Shamim ul Bari,

...for the State Respondents.

1. The appeal is arising out of an order passed by the learned Single Judge in a writ petition in which the writ petitioner has prayed for interest of arrear salary. The learned Single Judge refused to grant any interest on the ground that the petitioner was involved in a criminal case. The learned Single Judge was of the view that the involvement of the petitioner in the criminal case was the reason for delay in paying salary. This order is under challenge.
2. In order to ascertain the cause of delay, we directed the respondent authorities to file an affidavit. The Assistant Inspector of Schools (PE), Purulia has affirmed an affidavit. It appears from the affidavit that

the Deputy Director of School Education (Rural Primary), West Bengal issued a letter to the Chairman, DPSC, Purulia vide Memo No-564-Sc/P/2P-20P-2016 (Part I) dated 06/06/2019 stating:-

“Sri Bhim Chandra Mondal, Ex-Head Teacher of Raghudih Primary School was suspended from his service, as he was convicted on criminal charges and sentenced to jail and then released on bail bond by the order dated 4th August, 2008 of Hon’ble High Court, Calcutta. So this cannot be treated that he (Sri Mondal) was honourably acquitted and no judgment of the High Court found with a direction to re-instate him on this issue. The Chairman, District Primary School Council, Purulia had not furnished any explanation for his re-instatement and did not state any reason while withdrawing the suspension of Sri Mondal, made by him previously.

In view of the above Sri Bhim Mondal, Ex-Head Teacher of Raghudih Primary School may not be entitled to get any arrear salary for the period from 03.01.1984 to 30.04.2008 (date of superannuation), as claimed by him.”

3. The Deputy Director of School Education (Rural Primary) has completely misread and misconstrued the order of acquittal and has overlooked the observation of the

Coordinate Bench presided over by Justice Girish Chandra Gupta, as His Lordship then was (Former Chief Justice of this Court), in which the Coordinate Bench, *inter alia*, observed that the conviction of the present appellant cannot be sustained. The present appellant was never released on bail bond. It was an honourable acquittal. Surprisingly, on 13th May, 2015, the Sub-Inspector of Schools, Neturia Circle in communication to the Chairman/Secretary, DPSC, Purulia has communicated the decision for withdrawal of suspension and submission of arrear salary bill for the period from 3rd January, 1984 to 30th April, 2008. On 5th January, 2016, the arrear salary was calculated as per ROPA 90, 98 and 2009 aggregating to a sum of Rs.14,02,379.30/- thereafter this amount was not paid. Considering the fact that the petitioner received the entire arrears on 3rd August, 2023 notwithstanding a decision taken by the Deputy Director of School Education (Rural Primary) on 6th June, 2019 and presumably the authority concerned had realized that the decision of the Deputy Director of School Education (Rural

Primary) was erroneous. This clearly shows that the petitioner ought to have been paid latest by January, 2016 and there is no explanation offered for not releasing the amount soon thereafter. Interest is an equitable relief.

4. Considering the fact that if he would have received the amount in the year 2016, he could have given the amount in a fixed account earning suitable interest and that the deprivation of the said amount would not appear to be bona fide, we allow the appeal directing the respondents to pay interest on Rs.12,66,684/- from February, 2016 till 31st July, 2023 at the rate of 7% per annum within a period of eight weeks from date.
5. Accordingly, the appeal and the application stand disposed of.
6. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)