

Court No.22

04.7.2023

(Item No. 47)

(AB)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 23630 of 2017

Sudipta Mukherjee

VS

The State of West Bengal & Ors.

Md. Manwar Ali

Ms. Moumita Karmakar

.... For the petitioner

Mr. Biswabrata Basu Mallick

.... For the State

The previous order speaks for itself.

Today, the writ petition appeared under the heading **“For Dismissal”**.

Md. Manwar Ali, learned advocate appeared for the petitioner.

Mr. Biswabrata Basu Mallick, learned Additional Government Pleader appeared for respondent Nos. 1, 2 and 3.

Since, the relevant parties had appeared today and considering the issue involved in this writ petition and on the basis of the submissions made on behalf of the parties, this Court thinks it fit that, no useful purpose will be served by keeping this writ petition pending any further and accordingly, the writ petition was taken up for consideration.

This is a hearing matter upon affidavits.

The petitioner claimed to be an **Assistant Teacher** at present working at **Kharibona High School, District – Murshidabad**. The petitioner

claimed refund/return of salary for the period **November 16, 2015 to January 27, 2016**, which was not paid to the petitioner on the ground of alleged unauthorized absence.

The respondent School authority was not represented.

The record shows **Annexure P-3** at **page 21** to the writ petition which was a communication dated **February 27, 2017** issued by the relevant school authority would demonstrate that on an alleged ground of unauthorized absence the salary was deducted.

Considering the submissions made on behalf of the appearing parties and considering the materials on record, to sub-serve justice, the petitioner shall be at liberty to make a comprehensive representation before the respondent No. 3 within a period of two weeks from date but **such representation should not travel beyond the case made out in the previous representations of the petitioner, Annexure P-4 to Annexure P-6 at pages 22 to 24** to the writ petition. In the event, such representation is made, the respondent No. 3 shall immediately issue at least seven days prior hearing notice to the petitioner and the respondent Nos. 4, 5 and 6 and after affording an opportunity of hearing to them shall decide the issue by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 3 positively within a period of eight weeks from the date of communication of this order. The respondent No. 3 shall then communicate its order to the petitioner and all other relevant parties as directed above within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that, this court has not gone into the merits of the claim of the petitioner in any manner and the petitioner and the other respondents as directed above shall urge whatever points they wish to urge by relying upon whatever documents and records they wish to rely upon before the respondent No. 3.

It is made clear that, this order shall not create any equity or right in favour of the petitioner in the event the petitioner is not eligible to receive his claim strictly in accordance with law after considering the materials to be placed before the respondent No. 3.

The school authority had filed its affidavit-in-opposition. Today the learned counsel for the petitioner has filed the affidavit-in-reply thereto affirmed on July 17, 2018, the same is taken on record.

In the event, reasoned decision goes in favour of the petitioner, then the relevant school authority shall take all necessary and further steps strictly in

accordance with law to give effect to the said reasoned decision to be passed by the respondent No. 3 positively within a period of four weeks from the date of communication of the said reasoned decision to the school authority.

On the above terms, this writ petition being **WPA 23630 of 2017** 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.)