

WPA 24774 OF 2015

Hemanta Kumar Bouri

Vs.

The State of West Bengal & Ors.

Ms. Dipa Acharyya

....For the Petitioner

Affidavit-of-service, filed in Court today, is taken on record.

Despite service, none appeared for the respondents.

Mr. Rajat Dutta, learned advocate who previously appeared in the matter on behalf of the State, pursuant to the notice served upon him on behalf of the petitioner, appeared today before this Court and submitted that, since a fresh panel for learned State advocates had been prepared and he is not there in the panel any more, he cannot represent the State any further.

Considering the age of pendency of the writ petition since 2015, this Court thinks it fit and proper to consider and dispose it of today instead keeping it pending, as the pendency shall prejudice the lawful right of the petitioner to receive a decision on his claim.

Ms. Dipa Acharya, learned counsel appeared for the petitioner. Ms. Acharya submitted that, the petitioner,

after qualifying the selection process, got an appointment as an **Assistant Teacher in the year 2002 at Asna Junior High School, District – Bankura**. He started pursuing his higher qualification, viz. **M.A. in History in 2002** prior to joining to such an employment. The appointment of the petitioner was duly approved on **February 7, 2003**.

The petitioner then further appeared in the subsequent selection process held in the year **2008** and was selected as an Assistant Teacher and joined the said second selection process employment on **December 22, 2008** at one **Dubra High School (H.S.), District -Purulia**. The petitioner claimed the benefit for higher qualification while in his first employment.

The petitioner made a representation before the respondent no.2 dated **August 21, 2015, Annexure-P5 at page 33** to the writ petition. No heed was paid thereto. Ms. Acharya, learned counsel for the petitioner had referred to the following judgments in support of the petitioner's case, which were as follows:

- (i) Judgment and Order dated **September 9, 2021** delivered by a coordinate Bench in **WPA 21113 of 2019 (Subrata Kumar Ghosh –vs.- The State of West Bengal & Ors.)** and
- (ii) The Judgment and Order dated **February 11, 2021** passed by the **Hon'ble Division Bench**

***in MAT 825 of 2020 (Md. Adeel Uz Zaman -vs.-
The State of West Bengal & Ors.).***

Ms Acharya, learned counsel for the petitioner further relied upon ***sub-Section (3) to Section 14 of the West Bengal Schools (Control and Expenditure) Act, 2005*** and on the basis of the said two judgments of this Court she submitted that, the petitioner is eligible to receive the benefit claimed by the petitioner.

In view of the above, the ***respondent no.2*** is directed to decide the issue raised by the petitioner through his ***representation dated August 21, 2015, Annexure-P5 at page 33*** to the writ petition upon giving at least ***seven days' prior hearing notice to the petitioner, the present Teacher-in-Charge of Asna Junior High School, Bankura and the respondent nos. 5 and 6*** respectively and after giving them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

While taking the decision, the respondent No. 2 shall consider the judgments mentioned as above and the relevant provisions of law including their applicability in the facts of the petitioner's case and then shall pass its reasoned order.

The respondent No. 2 shall carry out and complete the entire exercise as directed above, positively within a period of six weeks from the date of communication of this order and then shall communicate his reasoned

order to the ***petitioner, the Teacher-in-Charge of the said Asna High School, Bankura and the respondent Nos. 5 and 6*** within a further period of two weeks from the date of the said reasoned order.

In the event, the reasoned order goes in favour of the petitioner, the respondent No. 2 shall take all further and consequential steps to give effect thereto in favour of the petitioner positively within a period of four weeks from the date of the said reasoned order to be passed.

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

It is made clear that, this Court has not gone into the merits of the claim of the petitioner, as stated above, in any manner whatsoever and the petitioner and all other parties shall be at liberty to urge whatever points he wishes to urge by relying upon whatever documents and records he wishes to rely upon before the respondent No. 2.

It is made clear that, this order shall not create any equity or right in favor of the petitioner if the petitioner is otherwise found ineligible to receive his claim strictly in accordance with law.

ACO

On the above terms this writ petition being ***WPA 24774 of 2015*** stands disposed of.

There shall, however, be no order as to costs.

Photostat certified photo copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)