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Ct-08

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MAT 1844 of 2022

with
I.A No. CAN 1 of 2022

Anjali Adhikari
Vs.
State of West Bengal & Ors.

Mr. Anjan Bhattacharya
Ms. Susmita Das
... For the Appellant

Mr. Asish Kumar Guha
Mr. Anirban Datta
... For the State

Mr. Subir Sanyal
Mr. Ratul Biswas
... For the Howrah District
Primary School Council

1. We have heard the learned counsel appearing for the parties.

2. The entitlement of the appellant for fixation of revised pension was a subject matter of challenge before the learned Single Judge. The learned Single Judge, however, did not decide the issue as to whether the Bal Sevika Training certificate relied upon by the petitioner is equivalent to PTT/JBT certificate. The petitioner/appellant admittedly enjoyed A category scale of pay. She was not responsible for the pay scale she enjoyed.

3. It is contended that the certificate, on the basis of which, she received higher scale of pay can not be directed to be refunded even after his retirement. The authorities, however, did not ask

for refund of the said amount. However, re-fixation of the pension of the petitioner shall be decided on the basis of the qualification of the petitioner under the relevant rules. It appears from the order of the learned Single Judge that as the equivalence of the certificate relied upon by the petitioner claiming 'A' category scale of pay requires reconsideration. The respondent authority has contended that without enquiring about the equivalence of the qualification relied upon by the petitioner permitted her to draw 'A' category scale of pay.

4. We find that the learned Single Judge has directed the Directorate of School Education to consider the equivalence without being influenced in the said order.

5. A copy of the reasoned order dated 8th December, 2022 is produced before us and a copy of the same is handed over in court to the learned counsel representing the appellant. For the purpose of communication of the final decision of the Commissioner of School Education, West Bengal. The date of this order should be treated as the date of communication. In the event the appellant is aggrieved by the said order it would be open for the appellant to challenge the said order in accordance with law.

6. Since the authority concerned has already taken a decision that the two certificates are not equivalent, we direct the authorities concerned to issue revised pension order along with retiral benefits, if any, within four weeks from the date of communication of this order. The appellant shall receive pension without prejudice to the rights and contentions that the order passed by the Commissioner of School Education, West Bengal is erroneous.

7. In view of the aforesaid, the appeal being MAT 1844 of 2022 stands disposed of.

8. In view of the disposal of the appeal, nothing remains to be decided in the application for stay being CAN 1 of 2022 and the same is accordingly disposed of.

9. However, there shall be no order as to costs.

10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

