

29 16.5.2023
Sc Ct. no.22

WPA 28640 OF 2022

Falguni Kumar Si

Vs.

The State of West Bengal & Ors.

Mr. R. Maitra
Mr. B. K. Das.

....For the Petitioner

Ms. Tapati Samanta

....For the State

The petitioner claimed that, initially he was appointed as a contractual para teacher in terms of an agreement dated **October 18, 2004**. The petitioner became permanent on January 9, 2012. In the meantime the petitioner had qualified the **State Level Selection Test, 2013** and became an approved assistant teacher with effect from November 22, 2013. The petitioner then retired on **November 30, 2021**.

The petitioner claimed continuation of his employment inclusive of the tenure as para teacher to receive the employment benefits at the time of superannuation.

Mr. Binoy Kumar Das, learned advocate appearing for the petitioner drawing attention to **Annexure-P15 at page 41 to the writ petition** submitted that, the petitioner had already made a **representation dated November 18, 2022, inter alia**, before the respondent no.7 and the same had not yet received any attention of the authority.

Learned counsel for the petitioner further submitted that, the law is well settled that, such type of consideration for continuation of service is permissible.

Ms. Tapati Samanta, learned advocate appeared for the respondent nos. 1, 4 and 7.

To subserve justice, the respondent no.7 is directed to consider the said representation dated **November 18, 2022, Annexure-P15 at page 41 to the writ petition** upon giving at least a seven days' prior hearing notice to the petitioner and after giving him an opportunity of hearing shall decide the issue in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.7 positively within a period of six weeks from the date of communication of this order.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon before the respondent no.7.

The respondent no.7 while deciding the issue shall consider the relevant provisions those would be relied upon on behalf of the petitioner including their applicability in the fact of this case.

Learned State counsel also submitted that, all the relevant records had already been produced by the relevant school authority before the respondent no.7.

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

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

In the event the reasoned decision goes in favour of the petitioner then the respondent nos. 4 and 7 shall give immediate effect thereto but positively within a further period of six weeks from the date of the reasoned order to be communicated to the respondent no.4.

On the above terms this writ petition, **WPA 28640 of 2022** stands disposed of, without any order as to costs.

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

(Aniruddha Roy, J.)