

01 17.04.2023
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W.P.A. 21967 of 2017

Purnima Boyal

-vs-

State of West Bengal & Ors.

With

W.P.A. 30205 of 2017

Arpan Boyal & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Samiran Mandal,
Mr. S. C. Dhara,
Mr. Abhinaba Dan

....for the petitioner in WPA 21967 /2017.

Mr. Samiran Mandal,
Mr. S. C. Dhara,
Mr. Abhinaba Dan

....for the respondent nos.8 & 9 in WPA 30205 /2017.

Mr. Ritwik Pattanayak,
Mr. Pappu Adhikhari

....for the petitioner in WPA 30205 /2017.

Mr. Ritwik Pattanayak,
Mr. Pappu Adhikhari

....for the respondent nos.8 in WPA 21967 /2017.

Mr. Abdur Rakib

....for the respondent no.7.

Ms. Chaitali Bhattacharya,
Mr. Kartik Chandra Kapas

....for the State.

The two writ petitions are before this Court one being WPA 21967 of 2017 instituted by the widow and younger son of the deceased headmaster and another is WPA 30205 of 2017 instituted by the elder son and the mother of the deceased headmaster.

Writ petitioners in both the writ petitions are claiming proportionate terminal benefits due to

death of the headmaster in harness on 3rd February, 2017.

At the time of hearing of these two writ petitions petitioners are represented by learned advocates and the school authority as well as State respondents are also represented by learned advocates.

The claims of the petitioners for release of proportionate terminal benefits have been questioned and disputed by the learned advocates representing the school authority and the State respondents.

An affidavit has been affirmed on behalf of the school authority of Khayranda P.K. Vidyapith, District- Purba Medinipur (hereinafter referred to as the “said school”) by the present headmaster on 12 April, 2023 pursuant to the order passed by this Court on 3rd April 2023 disclosing the sums under different heads which are required to be recovered from the terminal benefits payable to the petitioners due to death of the headmaster in harness. The particulars of sums are delineated in paragraph 4 of the said affidavit. The said affidavit is filed in Court and the same is taken on record.

On perusal of such sums which according to the school authority needs to be recovered from

the terminal benefits as delineated in paragraph 4 of the said affidavit, it appears that the sums against serial nos. 5 to 8 which are lying due, due to loan taken by the deceased headmaster from Khayranda S.K.U.S. Ltd., Haldia Patna, Purba Medinipur; Allahabad Bank, Alankarpur; Bangiya Gramin Bikash Bank and IDBI Bank, Haldia Branch. There are four other amounts which have been described under serial Nos. 1 to 4 in the table as contained in paragraph 4 of the said affidavit which according to the school authority have been utilised by the deceased headmaster since he was head of the institution and those amounts are recoverable as per the said school authority.

This Court on hearing the learned advocates representing the parties finds the sums which have been recoverable from the benefits of deceased headmaster against loan are not disputed amounts therefore same shall be recovered while releasing proportionate terminal benefits in favour of the petitioners. However, the amounts which have been described in the table in paragraph 4 of the said affidavit against serial Nos.1 to 4 are disputed amounts and for recovery of those amounts adjudication is necessary on factual aspects relating to the quantum of amounts which

needs to be recovered and at all same are lying due at the time of death of the headmaster.

This Court while exercising jurisdiction under Article 226 of the Constitution of India would not enter into disputed question of facts in deciding the quantum of such claims and the validity of the claims.

Therefore the said school authority and the State respondents including the District Inspector of Schools (S.E.), Purba Medinipur being the respondent no.4 are directed to release proportionate terminal benefits in favour of the petitioners in both the writ petitions after deducting the sums which have been delineated in the table against serial Nos.5 to 8 as contained in paragraph 4 of the affidavit affirmed on behalf of the said school authority on 12th April, 2023, within a period of twelve weeks from the date of communication of this order after completing formalities.

The respondent no.4 before releasing the proportionate amounts in favour of the petitioners in both the writ petitions shall decide the entitlement of the petitioners being the heirs of the deceased headmaster and decide the amounts including pension to be released in favour of the petitioners in accordance with law.

Such decision shall be taken by the respondent no.4 within a period of four weeks from the date of communication of this order.

Parties are directed to communicate this order to the respondent no.4 along with copy of the affidavit affirmed on behalf of the said school authority on 12th April, 2023.

However, this order shall not preclude the said school authority as well as State respondents to initiate appropriate legal proceedings against the petitioners for recovery of the amounts which have been delineated against serial Nos.1 to 4 as contained in the table in paragraph 4 of the said affidavit affirmed on behalf of the said school authority on 12th April, 2023.

In these two writ petitions widow of the deceased headmaster as well as elder son have claimed appointment on compassionate ground due to death of the headmaster in harness. The adjudication on these two writ petitions are confined to the entitlement of the petitioners being the heirs of the deceased headmaster to receive proportionate terminal benefits since on release of such terminal benefits in favour of the petitioners their financial positions may be altered which needs to be looked into while deciding the entitlement of

the petitioners to get appointment on compassionate ground. Therefore Court is not deciding the claims as lodged by the petitioners for appointment on compassionate ground at this stage and the same is kept open.

Petitioners shall be at liberty to take appropriate legal steps for appointment on compassionate ground in accordance with law.

With the aforesaid directions and observations both the writ petitions stand disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)