

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

(Appellate Side)

Present: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

W.P.A 31949 of 2008

Reserved on : 30.08.2023
Pronounced on: 08.09.2023

Anukul Chandra Mandal

...Petitioner

-Vs-

The State of West Bengal & Ors.

...Respondents

Present:-

Mr. Gobinda Bhattacharya
Mr. Ashis Kumar Dutta

... for the Petitioner

Rajarshi Bharadwaj, J:

1. The present writ petition has been preferred challenging the order dated 14th November, 2005 passed by the appeal committee of the Board of Secondary Education.

2. The facts in a nutshell are that the petitioner was appointed as a teacher-in-charge of Pakhirala Junior High School (hereinafter referred to as the 'said school') on September 01, 1979 at Pakhirala. The former secretary, one Prasanna Mandal, expressed explicit dissatisfaction with this appointment. On September 19, 1980, the former secretary forcibly halted school operations and established a club on the school premises. As a result,

on January 17, 1981, an order was issued relocating the school to the Primary school building at Pakhirala, sanctioned by the West Bengal Board of Secondary Education via memo no. 4102/6/2 on November 25, 1982.

3. Subsequently, a writ petition filed by the former Secretary led to a Court order mandating the school's relocation to its original premises. Without prior notice to the petitioner, other teachers of the school proceeded to join at the old school location. The petitioner endeavored to resume his duties on July 20, 1987, in response to a letter from the Administrator cum Sub-Inspector of School, one Joydeb Gayen. The petitioner faced physical assault and ejection from the school premises by the former secretary and respondents' no. 7 and 8. A General Diary (G.D) was lodged on July 25, 1987, documenting the incident. Despite diligent efforts, the petitioner was obstructed and threatened by respondents' no. 7 and 8 upon his repeated attempts to rejoin the school. The petitioner reported these events to relevant authorities to no avail. The respondent authorities maintained a persistent silence, leaving the petitioner uninformed of the status of his complaints.

4. Owing to this the petitioner lodged an appeal with the Appeal Committee of the Board of Secondary Education against the Secretary of the School and respondents' no. 7 and 8. The appeal sought reinstatement in the school, regular monthly salaries, and arrears as per the Government Order (GO) dated 19th August, 1977. The petitioner appeared before the Appeal Committee, where respondent no.7 and the School Secretary were also heard. Ultimately, the Committee directed the school authorities to reinstate the petitioner as an approved teacher at Pakhirala Junior High School. During the period until resumption of duty, the petitioner would be considered 'dies-non' with no salary, allowances, increments or benefits, but would still be counted for retirement benefits. Thus, being aggrieved by such order the present petition has been preferred.

5. Submissions of the counsel for the petitioner are that the Appeal Committee's deliberate omission of Government Order (GO) 1071/Edn (S) IS-19/77, dated August 19, 1977. The GO explicitly stipulated that teachers and non-teaching staff who were prevented from resuming their duties at the school under coercion should be promptly reinstated. Moreover, the Managing Committee, the teacher-in-charge and respondent nos. 4, 5, and 6 failed to prepare essential documents such as the salary sheet, gratuity calculations, and pension paperwork. They intentionally refrained from submitting these documents within the prescribed timeframe to the relevant State Authorities.

6. Though the matter was heard on 25.04.2023, 15.05.2023, 17.07.2023, 07.08.2023 and 30.08.2023 but none appears for the respondents on the above dates.

7. Having heard the learned counsel for petitioner and on perusal of records this Court is of the opinion that the order dated November 17, 2005, issued by the Appeal Committee of the West Bengal Board of Secondary Education is free from any inconsistencies. The Appeal Committee aptly concluded that, in spite of the directive issued by the West Bengal Board of Secondary Education, the petitioner failed to attend the school at its designated location without providing any prior notice. Consequently, respondent no.7 had to be appointed as the teacher-in-charge for the respective school at its original establishment. Furthermore, the Appeal Committee's assessment that the petitioner is not entitled to retroactive wages for the period during which he was not actively engaged at the original school premises is legally sound. Nevertheless, it is worth noting that the Committee duly recognized that no internal inquiry was conducted to investigate the alleged unauthorized absence of the petitioner from the school and thus, acknowledged that the petitioner remains in the employment of Pakhirala

Junior High School and, as such, is entitled to receive all retirement benefits that correspond to his service. Therefore, the petitioner was only entitled to all post-retirement benefits commencing from 31st October, 2006, which has been duly accorded to him.

8. For the foregoing reasons the writ petition is devoid of any merit. All pending applications are accordingly disposed of.

9. There will be no order as to costs. Urgent certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(RAJARSHI BHARADWAJ, J)

Kolkata

08.09.2023

PA (BS)