

WPA 7868 OF 2015
with
WPA 30993 OF 2014

Rabindra Shit

Vs.

The State of West Bengal & Ors.

Ms. Rama Haldar
Mr. S. K. Santy

....For the Petitioner

Mr. Suman Dey

....For the State

Initially the petitioner was a successful candidate in the **11th RLST, 2010**. He joined at one **Mirjanagar Arongkiarana Jogyeswar Smriti Vidyapith (H.S.), District – Purba Medinipur** (for short the **first school**) at the post of Assistant Teacher (pass category). Subsequently, the petitioner again qualified in **12th RLST, 2011**. He was successful. He joined at **Dakshin Anukha Mokshada Vidya Bhaban, District – Purba Medinipur** (fir short the **second school**).

While joining the said **second school** the petitioner's **past service benefit in every respect was credited in his favour**, which he had rendered in the said **first school**. After having the appointment approved, the petitioner was appointed and started taking classes as the Assistant Teacher at the said **second school**.

In the meanwhile, the respondent no.6 under a communication dated **October 21, 2014, Annexure-P12 at page 38** to the writ petition **withdrew** the candidature of the petitioner on the plea that, his appointment was **inadvertently** placed in the panel as a beneficiary of reserved candidates for the **temporary teachers at 12th RLST (AT) 2011**. Accordingly, the **recommendation was withdrawn**. Challenging such decision, the first writ petition being **WPA 30993 of 2014** was filed. The same is pending.

The petitioner then filed his second writ petition being **WPA 7868 of 2015** in which the coordinate Bench has passed an order dated **November 25, 2016**.

Pursuant to the composite orders passed by a coordinate Bench on **December 16, 2016** and **January 18, 2017** the appropriate authorities were directed to give appointment to the petitioner at a suitable vacant place and ultimately the petitioner received an appointment at one **Paramanandapur Jagannath Institution (H.S.), District – Purba Medinipur** (for short the **third school**).

Ms. Rama Halder, learned advocate appearing for the petitioner submits that, when the petitioner was placed in the **third school** the **past service benefit was not granted to the petitioner** after joining the **third school**. This is the combined grievance in these two writ petitions.

Record shows that, at all material times both these writ petitions were directed to be taken up and considered together. The said **third school** is not impleaded in either of these writ petitions.

Leave is granted to **add and implead Paramanandapur Jagannath Institution (H.S.), District – Purba Medinipur**, the **third school** in the second writ petition being **WPA 7868 of 2015** by putting the signature of the advocate-on-record of the petitioner on the original cause-title of the writ petition. The petitioner shall serve a copy of the said amended writ petition along with a copy of today's order upon the said added school.

It is submitted on behalf of the petitioner that, the **petitioner subsequently after qualifying the College Service Commission Selection Process, has joined in a college as an Assistant Professor** and has been serving as such since May 6, 2017. Hence, there is no scope of imminent prejudice or injury to be suffered by the petitioner but, of course, if the petitioner has a legitimate right to receive the past service benefit in the facts and circumstances, as pleaded in both these two writ petitions, he must receive the same strictly in accordance with law.

Mr. Suman Dey, learned State advocate represents the State authority in both the writ petitions.

The **second school** though being impleaded is not represented.

Considering the submissions made on behalf of the parties and considering the materials on record, the petitioner shall be at liberty to make a comprehensive representation before the Commissioner of School Education, West Bengal in the light of the case made out in both these two writ petitions and the orders passed from time to time thereunder within a period of **two weeks** from date.

In the event, such a comprehensive representation is made, the concerned Commissioner of School Education upon giving a prior hearing notice of at least seven days to the petitioner and the school authorities of the **Dakshin Anukha Mokshada Vidya Bhaban, District – Purba Medinipur**, the **second school** and **Paramanandapur Jagannath Institution (H.S.), District – Purba Medinipur**, the **third school** and after giving them an opportunity of hearing, shall decide the issue by passing a reasoned order in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the Commissioner of School Education **positively** within a period of **eight weeks** from the date of communication of this order. The Commissioner of School Education shall communicate its reasoned order to the petitioner, the said two schools and the respective jurisdictional District Inspectors of Schools

who have control and jurisdiction over the said **second school** and the **third school** respectively but **positively** within a **further** period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner whatsoever. The petitioner can participate in the hearing by himself or through his duly authorised representative. The petitioner 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 Commissioner of School Education including the records relating to the said two writ petitions and the orders passed thereunder from time to time. Both the said schools who shall participate in the said hearing shall also have the same liberties.

While deciding the issue, the **Commissioner of School Education** shall be free to decide the same **afresh** by applying his independent mind, strictly in accordance with law.

With the above observations and directions both the writ petitions, **WPA 30993 of 2014 and WPA 7868 of 2015 stand disposed of**, without any order as to costs.

Photocopy of this order be placed in the record of both the writ petition.

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

(Aniruddha Roy, J.)