

24 04.7.2023
Sc Ct. no.22

WPA 10033 OF 2020

Uttam Kumar Roy

Vs.

The State of West Bengal & Ors.

Mr. Debabrata Karan
Ms. Sabita Khutia Bhunya
Mr. Debopriyo Karan.

....For the Petitioner

Mr. Pinaki Dhole
Mr. Pinaki Bhattacharyya.

....For the Respondent
Nos. 1 to 5

Mr. Saibal Kumar Acharyya
Mr. Pradip Paul
Ms. Renesa Dey.

....For the Respondent
Nos.7 & 8

Previous order speaks for itself.

Today, the writ petition appeared under the heading
“For Dismissal”.

Mr. Debabrata Karan, learned counsel appeared for
the petitioner.

Mr. Pinaki Dhole, learned State counsel appeared for
the respondent nos. 1 to 5.

Mr. Saibal Kumar Acharyya, learned counsel
appeared for the respondent nos.7 and 8.

Considering the pendency of the writ petition and
considering the fact that, relevant parties were represented
before this Court and of course considering the issue
involved in this writ petition, this Court is of the firm view
that, there will be no useful purpose served by keeping this

writ petition pending any further, as such, the writ petition was taken up for consideration by this Court.

The petitioner contended that, ***he is a retired Head Master retired from one Kulti High School (H.S.), Paschim Bardhaman on January 31, 2020.*** The petitioner claimed that, the relevant school authority had not yet issued the necessary '***No Liability Certificate***', as a result, all the retiral benefits are being withheld by the State employer.

Drawing attention to ***Annexure-P13 at page 46 to the writ petition*** learned advocate for the petitioner submitted that, on ***August 21, 2020*** the petitioner made a representation before the respondent no.4.

However, the learned counsel appearing the parties had confirmed this court that, the appropriate authority is the respondent no.5.

Pursuant to the leave granted by a coordinate Bench on ***December 18, 2020***, the petitioner filed a supplementary affidavit today before this Court affirmed on August 26, 2022. The same is taken on record. Copy of such affidavit had been served upon the learned counsel appearing for the respondents.

Referring to ***Annexure-X29 at page 61 from the said supplementary affidavit***, learned counsel for the petitioner submitted that, by a communication dated May 2, 2022 the dispute raised by the petitioner was referred to the respondent no.2 for taking a decision.

Mr. Saibal Kumar Acharyya, learned counsel appearing for the respondent nos. 7 and 8, on instruction, submitted that, after retirement the petitioner had not yet made over the records of the school which were in the custody of the petitioner as the Head Master of the school.

Learned counsel for the petitioner denied such submission and submitted that, the petitioner had handed over charge to one senior teacher called **Sri Debdas Mukherjee**.

Per contra, Mr. Saibal Kumar Acharyya submitted that, the said **Sri Debdas Mukherjee** had lodged a police complaint against the petitioner that the signature as contended by the petitioner for receiving the charge from the petitioner, made by **Sri Debdas Mukherjee** was forged and fabricated.

Considering the submissions made by the parties and considering the materials on record, it appeared to this Court that, at the threshold some fact finding inquiry is required to be made and the same is not the job of a Writ Court.

However, considering the fact that, the petitioner is a retired employee of the school, the equity at least demands that, his case should be considered by the appropriate authority after causing the necessary fact finding inquiry at the first stage.

In view of the above, to subserve justice, the respondent no.2 shall issue a seven days' prior hearing notice to the petitioner, the respondent nos. 7, 8 and the

respondent no.5 and then after giving them an opportunity of hearing shall pass a reasoned order strictly in accordance with law on the basis of the case made out in the representation dated **August 21, 2020** and not beyond that.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.2 positively within a period of **ten 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 writ petitioner in any manner and the petitioner and the relevant parties, as directed above, shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.2.

It is made clear that, this order shall not create any equity or right in favour of the petitioner, in the event, after considering everything and all the factual matrix the petitioner is found ineligible to receive his claim in accordance with law.

However, it is also made clear that, while deciding the issue, the respondent no.2 shall act judiciously.

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

In the event the reasoned decision goes in favour of the petitioner then the respondent no.7 and the jurisdictional District Inspector of School and/or any other

authorities shall take immediate steps to give effect to the said reasoned order ***positively*** within a period of ***four weeks*** from the date of the said reasoned order to be communicated to them.

On the above terms this writ petition, ***WPA 10033 of 2020 stands disposed of***, without any order as to costs.

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

(Aniruddha Roy, J.)