

03-08-2023
Court No.2
Sh/49

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 353 of 2023

**Anupama Roy.
-Vs-
The State of West Bengal & Ors..**

Mr. Ajoy Kumar Singhanian.

..For the Petitioner.

Mr. Hirak Barman,
Mr. Pretom Das.

.. For the State.

Particulars submitted by the petitioner and report submitted on behalf of the respondents are taken on record.

The petitioner was working in Shishumahal K. G. Unit since 3rd August, 1981. The School was initially a private School and was taken over by the District Inspector of Schools (Primary Education) Jalpaiguri on and from 1st April, 1974. The petitioner has been receiving salary since August, 1981 as per Government scale.

The Deputy Secretary Education Department Primary Branch by a communication dated 29th January 1981 intimated the Director of Education, Primary Unit regarding approval of appointment of eight teachers in the existing vacancies, who were permitted to draw their salaries from the government fund without claiming any arrear of pay and a written undertaking to that effect was called from them. Appointment of the remaining four teachers who were appointed against the normal vacancies was approved.

Pursuant to an order passed by a co-ordinate bench of this Court on 10th September, 1990 in CR No.10029(W) of 1990, the School Education Directorate issued a memo dated 8th July, 1991 granting approval to the appointment of the petitioner therein, namely, Jaya Dasgupta with effect from 3rd August, 1981 without insisting on an undertaking being furnished. Subsequently, a memo was issued by the department on 24th November, 2017 in clarification of the pension cases in respect of the school wherein it was stated that the teaching and the non-teaching staff of the school were entitled to get the pay fixation benefit with effect from 1st January, 1980. This memo was challenged by one of the teachers, Subhra Som, in a writ petition being WPA 342 of 2019 and by an order passed on 29th August, 2019 a co-ordinate bench of this Court relied on the doctrine of "equal pay for equal work" and allowed the writ petition directing the concerned authority to issue necessary direction for disbursement of all benefits in favour of the petitioner therein, taking the scale to be effective from the date of her joining service, i.e., from 3rd August, 1981 with the only exception of the arrears of salary prior to 1st April, 2003.

In a subsequent decision taken in WP 1728 of 2022 on 13th July, 2022, a co-ordinate bench of this Court set aside the portion of the order dated 2nd June, 2005 to the extent that monitory benefit will be given retrospectively from 1st April, 2003.

Other Assistant Teachers similarly circumstanced with the petitioner filed several writ petitions before this Court seeking retiral benefits from the date of their joining the school. It appears that there is no

dispute with regard to the date of joining and the date of approval of appointment of the petitioner. The appointment of the petitioner was approved from 3rd August, 1981.

In view of the judgments passed by co-ordinate Benches of this Court in the earlier writ petitions and also in view of the fact that the petitioner herein is similarly circumstanced with the petitioners in the earlier writ petitions, this Court is inclined to hold that the petitioner is entitled to all her retiral benefits with effect from the date of her joining service and cannot be discriminated from the other teachers who have been directed to receive such benefits by this Court earlier.

Accordingly, the writ petition is disposed of directing the 5th respondent to issue necessary direction upon the respondent nos.2,6 and 7 to disburse all retiral dues including gratuity, pension etc. of the petitioner, calculating her service from the date of joining, i.e., 1st August, 1981. The entire exercise is expected to be completed within two months from the date of communication of this order.

Since Pension Payment Order has already been issued in favour of the petitioner, the authorities are directed to issue revised Pension Payment Order within the aforesaid stipulated time.

With the above observations and directions this writ petition being WPA 353 of 2023 is disposed of.

There shall be no order as to costs.

Since no affidavit has been called for, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties expeditiously on compliance of all requisite formalities.

(Suvra Ghosh, J.)