

29.07.2024
sayandeep
Sl. No. 09-10
Ct. No. 08

MAT 1426 of 2018
With
IA No. CAN 1 of 2015 (OLD CAN 248 of 2015)
IA No. CAN 2 of 2015 (OLD CAN 249 of 2015)
IA No. CAN 3 of 2015 (OLD CAN 250 of 2015)
IA No. CAN 4 of 2018 (OLD CAN 8942 of 2018)

Siddhartha Samanta
Vs.
State of West Bengal & ors.

With
MAT 1429 of 2018
With
IA No. CAN 1 of 2018 (OLD CAN 8944 of 2018)

Mithu Sengupta (Halder)
Vs.
State of West Bengal & ors.

Mr. Goutam Dey
Ms. Dipanwita Ganguly

..... for the appellant

Mr. Tapan Kr. Mukherjee. Ld AGP
Mr. Mrinal Kanti Ghosh

.... for the State

Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey

.... for the DPSC,
Bankura

Mr. Samiran Giri

.... for the DPSC, Purba
Medinipur

Mr. Subir Sanyal
Mr. Ratul Biswas
Mr. Dwarika Nath Mukherjee
Mr. Kaushik Chowdhury

..... for WBBPE

The matter has virtually become infructuous as out
of four writ petitioners two of them namely, Bidyut
Kumar Panja and Mojammel Molla has attained

superannuation after joining at the transferred post but the matter is still pursued on the score of extending the retiral and/or pensionary benefits to those superannuated appellants.

On 19.07.2024, the direction was passed upon the respective authorities to prepare all necessary documents for the purpose of computation of the retiral as well as the pensionary benefits to be forwarded to an ultimate authority i.e. the DI of Schools of the concerned District for further action. The intention of the Court was laudable in the said order that the person who joined the transferred post despite having challenges the order of transfer should not be deprived of their statutory right admissible to the said post.

The grievance is still persisting as there was a time gap between the challenge having thrown to an order of transfer and the joining of the transferred post. Such interregnum period needs to be regularized as the authority perceived the same to be an authorized absence to which the writ petitioners' joined issues as according to them they were prevented from resuming the charge. We do not go deep into the aforesaid aspects as the justice may be imparted if the direction is passed upon the authorities to take steps for regularization of such absence. It is not in dispute that there are statutory leaves to the credit of those superannuated appellants and also we so not find any fatter on the part of the authorities in regularizing the

absence after exhausting those statutory leaves by granting a special leave so that the notional benefit by way of regularization can be extended to those candidates. We, therefore, direct the authorities to complete the exercise as indicated above within three weeks from date.

So far as the other appellants namely, Siddhartha Samanta and Mithu Sengupta (Halder) are concerned, by virtue of a directed passed by the writ Court appearing in paragraph 48 of the impugned Judgment, they have joined to the transferred post and are discharging their duties. They are still in service and their services is availed by the authorities, bearing in mind the obligations, constitutional and statutory, to set up the education system in the State stemming from the constitutional guarantees foisted upon the Government to set up the educational schools/institutions within the State.

After joining the transferred post, the aforesaid two teachers are discharging their duties entrusted upon them while imparting education to the children in the said transferred School. There has been a gap because of pursuing the remedy before the Court, we hope that the authorities shall take a pragmatic view in this regard for regularizing the absence in order to ensure the continuity in service. The authority shall take into account the leaves available to the aforesaid teachers and in the event the absence exceeds after

exhausting such statutory leaves, shall take conscious decision in granting the extraordinary leaves to maintain the continuity in service.

Such exercise shall also be completed within four weeks from the date of the communication of this order. In the event, the authorities requisitioned the aforesaid appellants to make a formal application, the same would be complied with but that would not act as a deterrent to their interest and should not create any detrimental effect on the directions so made above.

With these directions, the aforesaid appeals and the applications are disposed of.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)