

14.11.2024
Court No. 18
Item No. 26
(Suvendu)

WPA 728 of 2023

Ranjit Kumar Sasmal & Ors.

-Versus-

The State of West Bengal & Ors.

Mr. Indranil Roy

Mr. Bibekananda Tripathi

Mr. Sunit Kumar Ray

...for the petitioners

Mr. Swapan Banerjee, Ld. AGP

Mr. Sougata Mitra

.....for the State

Matter relates to sanctioning of 3% additional increment in favour of the petitioners who are presently working as Headmasters in different higher secondary schools.

Mr. Roy, learned advocate representing the petitioners has submitted that petitioners' first writ petition being WPA 23399 of 2019 (Ranjit Kumar Sasmal & Ors. Vs. The State of West Bengal & Ors.) was disposed of by a Coordinate Bench by order dated 8th June, 2022 by directing the District Inspector of Schools (SE), Purba Medinipur being respondent no. 4 to forward the cases of the petitioners to the Joint Director (Accounts) of the School Education

Department, Government of West Bengal for releasing 3% additional increment in accordance with law. In addition thereto, Joint Director of (Accounts), Commissioner of School Education and respondent no. 4 were directed to make recommendation relating to release of 3% additional increment along with arrears to the petitioners in that writ petition within a specific time on satisfaction of all criteria. It is submitted on behalf of the petitioners that pursuant to the order dated 8th June, 2022, respondent no. 4 issued a memo dated 24th November, 2022 thereby refixing pay of petitioners on 17th August, 2022 after allowing 3% additional increment with effect from respective dates of their joining to the posts of Headmaster in terms of relevant Government Orders. However in the same breath, in paragraph 6 of the said memo dated 24th November, 2022 it was recorded by the respondent no. 4 that ADA/DDA/JDA returned the cases of the petitioners raising certain observations based on relevant Government Orders.

It is contended on behalf of the petitioners that once respondent no. 4 has refixed the pay

of the petitioners by sanctioning 3% additional increment for manning the post of Headmaster in higher secondary schools in terms of order dated 8th June, 2022 passed by a Coordinate Bench in the previous writ petition, other State authorities ought not to have raised objection against completing the exercise by the respondent no. 4. Accordingly, prayer is made for giving direction upon the concerned State respondents to grant 3% additional incremental benefits to the petitioners based on exercise completed by the respondent no. 4, as it emanates from memo dated 24th November, 2022.

During course of hearing, reliance has also been placed on the judgment of another Coordinate Bench dated 21st June, 2024 passed on a writ petition being WPA 18216 of 2019 (Dibyendu Sundar Ray Vs. State of West Bengal & Ors.).

Learned Additional Government Pleader representing the State respondents has opposed the prayer of the petitioners on the ground that while petitioners were working as Assistant Headmasters in their respective schools additional incremental benefits @ 3% were

sanctioned to them. Therefore, these petitioners are not entitled to receive further incremental benefits for manning the posts of headmaster in higher secondary schools.

In reply to such submission made on behalf of the State respondents, it is contended on behalf of the petitioners that there is no embargo in the relevant Government Orders and applicable ROPA Rules that after receiving 3% additional incremental benefits as Assistant Headmasters incumbents are not entitled to receive identical incremental benefits while working as Headmasters.

In paragraph 27 of the writ petition statements have been made to the extent that two similarly circumstanced persons while working as Headmasters have been granted additional incremental benefits after getting incremental benefits while they were working as Assistant Headmasters in higher secondary schools. In support of such contention, reliance has been placed on two Government Orders, one being memo dated 27th February, 2009 being no. 46-SE(B)/5B-1/2009 and another being clarificatory Memo dated 10th February, 2010 being no. 30-SE(B)/5B-1/2009.

It is also contended that while raising objections as it transpires from the memo dated 24th November, 2022, by ADA/DDA/JDA against the steps taken by respondent no. 4 in upwardly fixing pay of the petitioners on granting incremental benefits the issue of sanctioning identical benefits in favour of the petitioners while working as Assistant Headmasters was not taken. According to the petitioners, at the hearing stage of this writ petition new issue cannot be raised in order to frustrate the claim of the petitioners.

Having considered the rival submissions made on behalf of the parties and taking note of the steps taken by respondent no. 4, as it appears from Memo dated 24th November, 2022 disclosing grant of additional 3% incremental benefits in favour of the petitioners in terms of the previous order dated 8th June, 2022 passed in WPA 23399 of 2019, the Commissioner of School Education being respondent no. 2 is directed to take final decision on entitlement of the petitioners to receive additional 3% incremental benefits for manning the posts of Headmaster in higher secondary schools. Respondent no. 2 is directed to pass a reasoned

order within a period of eight weeks from the date of communication of this order after granting opportunity of hearing to the petitioners and same shall be communicated to them by two weeks thereafter. While taking decision respondent no. 2 shall take into consideration the steps already taken by the respondent no. 4 relating to refixation of pay of the petitioners on granting incremental benefits with effect from the respective dates of joining of the petitioners as Headmasters and relevant Government Orders which are to be placed on behalf of the petitioners. The ratio of Dibyendu Sundar Ray (supra) shall also be followed by the respondent no. 2.

With the above observations and directions, writ petition stands disposed of.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)

