

2309
2024
MONDAY

Court : 08
Item : DL-10
Matter : MAT
Status : DISMISSED
Bench ID : 266211
Transcriber : NANDY

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

MAT 120 of 2024
With
CAN 1 of 2024

Akshaya Kumar Das
Vs.
The State of West Bengal & Ors.

Mr. Supriya Ranjan Ghosh, Advocate
Mr. Jayabrata Mukherjee, Advocate
.....for the Appellant
Mr. Kallol Basu, Advocate
Mr. Samik Sarkar, Advocate
.....for the Respondent No. 8
Ms. Koyeli Bhattacharya, Advocate
Mr. Bibek Dutta, Advocate
.....for the WBBSE
Mr. Supriyo Chattopadhyay, Advocate
Mr. Sagnik Chatterjee, Advocate
.....for the State

1. The writ-petition seeking direction upon the respondent authorities to release all retiral benefits including pension and provident fund, is dismissed by the Court with the categorical findings that the absence for a period of 627 days has been treated as extraordinary leave without pay and, therefore, all the admissible benefits after taking into account the aforesaid decision of the Court should be released to the appellant by the District Inspector of Schools (SE), Howrah and School.
2. At the time of admission of the appeal i.e. on 03.05.2024, direction was passed upon the State-Respondent to communicate the Court as

to whether the District Inspector of Schools (SE), Howrah has already taken steps in terms of the said order. Subsequently, directions were passed to exchange affidavits and on the last occasion, it was noticed that the District Inspector of Schools has not taken any final decision and, therefore, direction was passed upon him to afford an opportunity of hearing to all the interested parties and submit the report indicating the decision taken thereupon.

3. Pursuant to the said order, the Secretary of the Board has taken a decision and communicated the same to this Court. Still the appellant feels aggrieved as the relevant document i.e. the Attendance Register was not filed before the said authority and the documents relied upon the School Authority was also not served upon him. The order dated 19.08.2024 passed by the Secretary of the Board, reveals that on 06.09.2024, though the appellant himself was not present but was represented by his Counsel and the School Authorities submitted various documents including the copy of the resolution dated 23.08.2022 reflecting the days of absence and also the total number of leaves admissible to the petitioner.
4. The Board hands over the said copy to us but the Counsel for the appellant disputes that the same has not been served upon him. The order dated 19.08,2024 reveals that both the School Authorities and the learned Advocate

for the appellant have exchanged their papers between them and a further submission was made that the Attendance Register should also be disclosed.

5. Since the certificate containing full details of the absence of the leave available to the appellant was also taken into account, we do not find that there is any incongruity in the stand of the respondent before us. The absence have been treated as extraordinary leave without pay which is also noticed by the Single Bench and directed the authorities to calculate the retiral benefits as admissible to the appellant to which we do not find any ground warranting any interference in the instant appeal.
6. Since the copy of the order dated 19.08.2024 has already been served upon the Learned Advocate appearing for the appellant, any observations made therein shall not be construed as final.
7. However, it is open to the appellant to pursue the remedy as available in law before the appropriate forum.
8. The appeal being **MAT 120 of 2024** stands **dismissed**. Consequently, all connected applications are dismissed. No order as to costs.

(Harish Tandon, J.)

(Partha Sarathi Sen, J)

