

08.04.2024.
Court No. 13
Item No. 8
ap

W.P.A. No. 3325 of 2023

**Sri Indranil Mitra
Versus
The State of West Bengal & Ors.**

Mr. Tushar Kanti Mukherjee.
...For the petitioner.
Mr. Bhaskar Prasad Vaisya,
Mr. Nilay Baran Mandal.
...For the DPSC, Purulia.
Mr. Biswabrata Basu Mallick, AGP
Mr. Sanjib Das.
...For the State.

1. The report of the CID, West Bengal has been considered along with the instructions of the District Primary School Council, Purulia and the same are kept with the record.
2. The petitioner was working as a Headmaster in Hirbahal Primary School under Rural-II Circle, Purulia. He has been serving as Teacher since 1993. In the year 2011, the petitioner was implicated in a criminal proceeding in connection with Purulia Town Police Station Case No.101 of 2011 dated 26th August, 2011 under Sections 341/332/353/186/506 of the Indian Penal Code.
3. The petitioner was then arrested and thereafter restrained from joining his School. The petitioner, after being released on bail, made repeated representations

to the Authorities to be allowed to join his service back.

4. Admittedly, there is no order of suspension of the petitioner from service.

5. It appears from the records that on the petitioner's representation, the District Inspector of Schools (PE), Purulia on 18th June, 2021 sought instructions from the Commissioner of School Education, West Bengal as regards the rejoining of the petitioner in the School concerned.

6. It further appears from the report filed by the respondents that the petitioner has been deemed allegedly absent for six years one month and twenty eight days before he rejoined service on 18th July, 2011. The petitioner is also stated to be allegedly unauthorized absence from 20th May, 2005 to 17th July, 2011. It further appears therefrom that the petitioner has been absent from 24th August, 2011 till date.

7. The petitioner, however, submits that since he was prevented from joining the School by the respondents, the question of any unauthorized absence does not and cannot arise.

8. In those circumstances, this Court directs the Commissioner of School Education, West Bengal, to call for the records of the petitioner's service from the District Primary School Council, Purulia and take a

decision on the petitioner's rejoining his service mandatorily and positively within a period of one month from date.

9. The Commissioner of School Education, West Bengal shall, if necessary, also be permitted to constitute a Medical Board to assess the ability of the petitioner to discharge service. The petitioner shall be personally heard by the Commissioner of School Education, West Bengal on 18th April, 2024 at 2:00 P.M.

10. For the aforesaid purpose, the petitioner and/or his legal representatives shall be heard personally by the Commissioner of School Education, West Bengal.

11. Since no proceedings have been taken out against the petitioner for any alleged unauthorized absence, the Commissioner of School Education shall also take a decision on the period of alleged absence of the petitioner. Admittedly, there is no order suspending the petitioner from service.

12. Let a decision be communicated to the petitioner immediately upon the same being taken.

13. Any consequential benefits payable to the petitioner shall be released to him immediately thereafter.

14. With the aforesaid directions, the instant writ petition shall stand disposed of.

15. There will be no order as to costs.

16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)