

22-04-2024
ct no. 13
Sl. Nos.501 to 511
pk

WPA 5982 of 2019
Smt. Minati Sarkar
Vs.
The State of West Bengal & Ors.
With
WPA 5983 of 2019
Sabita Saha
Vs.
The State of West Bengal & Ors.
With
WPA 5985 of 2019
Sukla Biswas (Mondal)
Vs.
The State of West Bengal & Ors.
With
WPA 5992 of 2019
With
IA NO: CAN 1 of 2023
With
CAN 2 of 2023
Panchanan Roy
Vs.
The State of West Bengal & Ors.
With
WPA 5995 of 2019
With
IA NO: CAN 1 of 2023
With
CAN 2 of 2023
Balaram Saha
Vs.
The State of West Bengal & Ors.
With
WPA 5997 of 2019
Kamala Kanta Biswas
Vs.
The State of West Bengal & Ors.
With
WPA 5999 of 2019
Chittaranjan Bhattacharyya
Vs.
The State of West Bengal & Ors.
With
WPA 6050 of 2019
With
IA NO: CAN 1 of 2023
With
CAN 2 of 2023
Nila Banerjee alias Lila Chakraborty
Vs.
The State of West Bengal & Ors.

WPA 5000 of 2024
With
WPA 6080 of 2019
With
IA NO: CAN 1 of 2023
With
CAN 2 of 2023
Anjali Ghosh
Vs.
The State of West Bengal & Ors.
With
WPA 6081 of 2019
Basanti Lata Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Sattwik Bhattacharyya,
 Mr. Aashutosh Bhattacharyya,
 Mr. Titas Niyogi,
 Mr. Aritra Roy

...for the petitioners in
all the writ petitions.

Mr. Rajendra Chaturvedi

...for the State in
WPA 5992 of 2019.

Ms. Tuli Sinha

for the State in
WPA 6080 of 2019.

Mr. Biswabrata Basu Mallick
 ... for the State in WPA 6081 of 2019

Mr. B.P.Vaisya,
 Mr. Suman Dey,
 Mr. Sagnik Chattejee
 ... for the State in WPA 5982 of 2019 & WPA
 5000 of 2024

Mr. Ranjan Saha
 ... for the State in WPA 5995 of 2019

Mr. M. K. Singh
 Mr. S. Majumder
 ... for the State in WPA 6050 of 2019

Mr. Sanjib Das
 ... for the State in WPA 5985 of 2019

Mr. Vimal Kumar Shahi
 ... for the State in WPA 5999 of 2019

Ms. Anjushree Mukherjee,
 Mr. Arun Kumar Saha
 ... for the State in WPA 5000 of 2024

Mr. Supriyo Chattopadhyay
Mr. Sabyasachi Mondal

...for the State in
WP 5997 of 2019.

1. Having heard the learned counsel for the parties, this Court has considered the Memo dated 12.08.1998 issued by the Joint Secretary, School Education Department, Government of West Bengal.

2. By the said Memo the judgement and order dated 12.02.1996 passed by the Division Bench of this Court in MAT Nos. 947, 925, 1017, 1044, 1070 etc. of all 1997 and to say that in compliance with said judgements and/or order, the Governor is pleased to issue the following directions:

“A) (1) The Primary School teacher who had opted for the revised scale of pay introduced in G.O. No.33-Edn.(B) dated 07.03.90 within the prescribed date and draw pay in the revised pay scale upto 60 years of age, but continued in service thereafter and drew pay in the unrevised pay scale and retired on completion of 65 years of age before 27.04.92 that is, the date when the G.O. No.196-Edn.(B) dated 27.04.92

was issued offering such teachers a change to revert to the old scale of pay, may be allowed to make refund of the salary overdrawn for the period of their service beyond 01.08.90 (vide Govt. Order in Memo No.238-Edn. (B) dt. 26.07.90) and their pension etc. may be settled in the revised pay scale thereafter, on their asking, in writing, for such benefit.

(2) The primary school teachers who had opted for the revised of pay in terms of the G.O. No.33-Edn.(B) dated 07.03.90 and drew pay in that pay scale upto 60 years of age, but who continued to serve till 65 years of age and beyond 27.04.92 should be deemed to have opted for the pre-1.1.86 scale of pay. The pension cases of such teachers should be settled on : (a)their submission of a written declaration to the effect that they are canceling their earlier option for the revised pay scale, and (b) refunding the excess salary drawn in the revised pay scale to the Govt. Thereafter their pension etc. will be settled in the pre-1.1.86 scale of pay.

(3) The primary school teachers who had opted for the revised pay scale in terms of G.O.No.33-Edn.(B) dt. 07.03.90 and drew pay in that pay scale upto 60 years of age, but continued beyond 60 years and served for varying periods of 1, 2, 3 and 4 years of more on old scale of pay and whose services were discontinued by the District Primary School Council before their attaining the age of 65 years in terms of the aforesaid orders of the Ld. Division Bench dated 12.02.96 and also the order of the Supreme Court of India dated 11.04.96 say, at their option: Either, refund to the Govt. the salary drawn in the old pay scale for their service beyond 60 years of age in order to be eligible for consideration of pension etc. in the revised pay scale. Or, get their pension etc. settled in the pre-1.1.86 scale of pay on the length of approved service they actually rendered; in such cases, the salary overdrawn in the revised pay scale shall have to be refunded to the Government.

B) All refunds are to be made by 90 days from the date of issue of this memorandum. The concerned primary teachers are hereby given the option of adjustment of the amount to be refunded with the retiring gratuity and arrears of pension due to them, if they submit a written declaration asking for such adjustment in addition to any declaration/undertaking, if required, as mentioned above, by 90 days from the date of issue of this memorandum.

C) The onus of submitting declaration/undertaking etc. and/or making refund by the period as prescribed above shall lie with the primary teacher concerned. The refund shall have to be made in T.R. Form No.VII in the Reserve Bank of India or the Treasury to the State account within the period as prescribed above under the following head of account "0202-Education, Sports, Art & Culture-01-General Education-101-Elementary-Education-3-recoveries of overpayment".

A copy of the treasury challan showing the deposit of refund shall have to be

submitted to the District Primary School Council/Siliguri Sub-Divisional Primary School Council/District School Board, Hill Areas, as the case may be by 100 days from the date of issue of this memorandum.

D) Pension cases of primary school teachers, already settled need not be reopened.”

3. The Circular dated 12.08.1998 came to be issued.

4. This Court sees no reason to deviate from the judgement in the instant case. The Circular dated 12.08.1998 shall apply to the petitioners.

5. This Court also notices that the writ petitions are being filed after thirty years of retirement and superannuation of the petitioners. The said delay is yet another ground for not calling any other relief.

6. The writ petition is dismissed based on the judgement dated 5th September, 1997.

7. In view of dismissal of these writ petition, connected applications are also dismissed.

8. Instructions of the State in Wpa 5992(W) of 2019 is kept with the record.

(Rajasekhar Mantha, J.)

