

19.12.2024
Item No.3
PG/KS
Ct. No.1

W.P.A. 4840 of 2023
Sasanka Sekhar Laskar & Ors.
Versus
The State of West Bengal & Ors.

Ms. Santi Das
Mr. R.D. Bhowmick
.....For the Petitioners

Md. Sarwar Jahan
Ms. Mousumi Mitra
Mr. Maidul Islam Kayal
Ms. Tapati SarkarFor the Respondent No.5

Mr. Anil Kumar Gupta
.....For the Respondent No.10

1. The petitioners by way of this writ petition have sought for a direction upon the respondents, particularly the State Project Director, West Bengal, PBSSM to take steps to extend the benefit of Employees Provident Fund under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 in favour of the petitioners, who are rendering their service as Sahayaks/ Sahayikas (SSK), Samprasarak/ Samprasarikas and Academic Supervisors at different Sishu Shiksha Kendras under PBSSM.
2. The matter was initially heard by the learned Single Bench, which opined that since, the petitioners seek for a larger relief, the matter should be treated as a public interest litigation and accordingly, the matter was directed to be placed before the Chief Justice, who in turn has directed the matter to be taken up as a public

interest litigation. This is how the writ petition is placed before us.

3. We have elaborately heard the learned advocates for the parties.
4. Earlier, a writ petition in W.P.A. 7766 of 2023 was filed seeking for more or less a similar relief and the said writ petition was disposed of by issuing certain directions by order dated 7th December, 2023. Pursuant to said direction, the Government of West Bengal, Department of School Education has passed the order dated 29th August, 2024, which is to the following effect:-

“GOVERNMENT OF WEST BENGAL
DEPARTMENT OF SCHOOL EDUCATION
ELEMENTARY EDUCATION BRANCH
BIKASH BHAVAN, 5TH FLOOR, SALT LAKE, KOLKATA –
700091

No.:306-SED-18028(99)/2/2021-PB SEC-Dept. of SE Date: 29/08/2024

MEMORANDUM

The Governor has been pleased to accord approval for payment of Employer's Share towards the EPF in respect of Sahayaks/Sahayikas of SSKs and Samprasaraks /Samprasarikas including Mukhya Samprasaraks /Samprasarikas of MSKs, who opted for engagement up to the age of 60 years w.e.f. 01/04/2024 in compliance with the order of the Hon'ble High Court in WPA 7766 of 2023 with CAN 1 of 2023 in the matter of Arup Kumar Mukherjee & Others – Vs- Union of India & Others.

This is issued in concurrence with the Finance Department U.O. No.: Group P2/2024-2025/0367, dt. 29/07/2024.

*Additional Secretary
to the Govt. of West Bengal*

No.:306-SED-18028(99)/2/2021-PB SEC-Dept. of SE
Date:29/08/2024”

5. As could be seen from the above order, the Hon'ble Governor was pleased to accord approval for payment of Employer's Share towards the EPF in respect of

Sahayaks /Sahayikas of SSKs and Samprasaraks/Samprasarikas including Mukhya Samprasaraks/Samprasarikas of MSKs, who opted for engagement up to the age of 60 years with effect from 1st April, 2024 in compliance with the orders passed by this Court in W.P.A. 7766 of 2023. In this writ petition, the petitioners now seek for a direction that they should be permitted to continue in service up to the age of 65 and also be paid the EPF benefits.

6. This, in our view, cannot be done as if the petitioners seek to equate themselves as Para Teachers, then for all purposes, they should be governed by the same service conditions.
7. It is not in dispute that the Para Teachers retire at the age of 60 years. Therefore, the petitioners cannot seek for a double benefit i.e. continue till the age of 65 years and also seek for payment of provident fund till they retire at the age of 65. More importantly, the Government of West Bengal, School Education Department has issued a Notification dated 18th December, 2019 in which the following conditions find place:-

“2. The Sahayaks /Sahayikas and Mukhya Sahayaks / Mukhya Sahayikas of SSKs, Samprasaraks / Samprasarikas and Mukhya Samprasaraks / Mukhya Samprasarikas of MSKs who are within the age of 60 years on the date 01.04.2020 shall be required to give their option in the format annexed herein, by 5 pm of 01/02/2020 to

Mission Director of PBRSSM through the District Nodal Officer, SSK / MSK of the concerned district, for treating them at par with the Para Teachers of Paschim Banga Samagra Shiksha Mission under School Education Department, Govt. of West Bengal and engage them with similar terms and conditions as that of Para Teachers, to get similar benefits extended to the Para Teachers.”

8. Admittedly, the above Notification dated 18th December, 2019 has not been challenged; rather has been accepted by all the Sahayaks/Sahayikas, Samprasaraks/Samprasarikas including Mukhya Samprasaraks/Samprasarikas and if that be the factual position, the prayers sought for in this writ petition cannot be acceded to.
9. Accordingly, the writ petition is dismissed.
10. However, if the Sahayaks/ Sahayikas, Samprasaraks/ Samprasarikas including Mukhya Samprasaraks/ Samprasarikas etc. seek for payment of EPF benefits, then they should agree to the condition to retire at the age of 60 years and exercise such option.
11. No costs.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)