

02.01.2024
Item No.09
Court No.18
AJ.

W.P.A. 8581 of 2023

Tapan Kumar Chakraborty
-Vs-
The State of West Bengal & Ors.

Mr. Kalyan Kumar Panda,
Uttam Kumar Roy,
Mr. Nirmalya Dhara.
.....for the petitioner.
Mr. Bhaskar Prasad Vaisya, A.G.P.,
Mr. Suman Dey.
.....for the State.

The order dated October 11, 2023 requires correction of the typographical error.

In the 5th line of the 2nd paragraph of the said order, let the word 'getting' be inserted after the alphabets 'D.A.', other portion of the said order shall remain unaltered.

The Department is directed to carry out necessary correction in the aforesaid order to the extent as indicated above as well as in the certified copy of the order, if already supplied to the parties.

The petitioner is challenging the Memo bearing No.76/g/c/DPPG dated June 20, 2022 issued by the Assistant Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the said authority since has not been impleaded as party, leave is granted to the learned Advocate for the petitioner to add the said left out authority.

Mr. Vaisya, learned Additional Government Pleader since can represent the said authority, no further notice need be served upon the said added respondent.

The added respondent, relying on the notification of the School Education Department, bearing Memo No. G.O.131-SE(B) dated April 19, 2006 has held that the period of service of the petitioner in a D.A. getting school cannot be taken into account while reckoning the period of qualifying service to give him the benefit of pension.

Mr. Panda, learned counsel for the petitioner submits that the petitioner joined the Government aided school much prior to the aforementioned Notification dated April 19, 2006 came into effect, as such the said notification cannot be made applicable in denying the prayer of petitioner for pension, in support of his said argument, Mr. Panda relies on the decision of the Hon'ble Division Bench of this Court dated July 06, 2023 passed in **F.M.A. 1313 of 2021 (State of West Bengal vs. Suphal Chandra Pramanik & Ors.)**

Having heard the learned counsel for the parties and on perusal of the records, it appears that the petitioner on December 07, 1984 joined as an Assistant Teacher in Batanagar High School, a Government recognized D.A. getting school, his such appointment was subsequently approved by the District Inspector of Schools (S.E.), District: 24-Parganas (South) vide Memo No.2579/Ali/G. dated August 06, 1985.

The petitioner participated in the Regional Level Selection Test held in the year 1999 for recruitment in the post of Headmaster and was found eligible in the said selection test, in pursuance thereof,

on March 14, 2000 he was appointed in the post of Headmaster at Kanpur Krishnabati Vivekananda Institution (H.S.), a recognized Government aided school and had retired from his said service as such after attaining the age of superannuation on October 31, 2016.

The petitioner is praying that his period of service in the said D.A. getting school for the period from December 07, 1984 till March 13, 2000 be taken into account while reckoning the period of his qualifying service for the purpose of pension.

The right of the petitioner to get the pensionary benefit flows from the Memo No. $\frac{180-Edn.(B)}{IM-83/88}$ dated May 20, 1988.

The Hon'ble Division Bench of this Court in the decision cited by Mr. Panda has held that the Memorandum dated April 19, 2006 could only be made effective against those employees who, during the course of their service, joined D.A. getting schools after the date of the said notification and not to those who had served in aided and D.A. getting schools and lastly in aided schools earning the right of pension under the Notification dated May 20, 1988.

The petitioner admittedly had joined the said Government-aided school much prior to the aforementioned Notification dated April 19, 2006 came into force, as such the said Notification has no manner of application in reckoning the period of his qualifying service for the purpose of granting the benefit of pension.

The impugned memorandum, for the aforesaid reason, is set aside.

The Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the respondent no. 3 herein is directed to consider the prayer of the petitioner for pension afresh in light of the observations made hereinabove and to take consequential steps accordingly.

The petitioner since has retired in the year 2016, a prompt action for disbursement of his pensionary benefits is expected.

W.P.A. 8581 of 2023 is thus disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)