

21-02-2024
ct no. 13
Sl. 44
pk

WPA 10839 of 2021

Purnendu Sekhar Baidya
-Versus-
The State of West Bengal & Ors.

Mr. Pankaj Halder,
Mr. Bidish Ghosh,
Mr. Sanatan Panja,
Mr. Subhendu Bhattacharya,
Mr. Tapas Manna
..for the petitioner

Mr. Sagnik Chatterjee,
Ms. Dipa Bhattacharya
...for the State

Mr. Bhaskar Prasad Vaisya,
Mr. Ranjan Saha
... for the D.P.S.C., South 24 Parganas.

1. The petitioner's wife Rita Bhandary was as Assistant Teacher under the District Primary School Council, South 24 Parganas. She was suffering from cancer and was absent on 971 days from 05.01.2018 to 1st September, 2020. The wife died on 1st September 2020.
2. 180 days from the said period has been adjusted towards sanctioned leaves by the Chairman of the D.P.S.C., South 24 Parganas. Balance period of 791 days remains.
3. The Co-ordinate Bench had earlier directed the DPPG to take a decision on the period of 791 days. Accordingly the DPPG by an order dated 18.01.2024 held that he has no power to consider the period of 791

days and transmitted the matter to the Additional Secretary, School Education Department, Government of West Bengal for a decision in the matter. Copy of the order of the DPPG is kept with the record.

4. This Court is of the view that no useful purpose would be served in keeping the matter with the Secretary, School Education Department to consider the petitioner's absence of 791 days.
5. This Court, therefore, directs the D. I. of Schools, South 24 Parganas (Primary) to adjust all available leave to the deceased teacher in the said period of 791 days and treat the balance as extraordinary leave without pay.
6. The concerned D. I. shall calculate and communicate the last drawn pay of the deceased and transmit the same to the D.P.P.G. within a period of three weeks from date.
7. The arrears of pay on account of the petitioner's service, based on the calculation of the D. I. shall be released by the concerned D. I. after receipt of necessary bill from the concerned S. I. of Schools at the earliest but not later than a period of two weeks of the decision taken by the D. I. as directed herein above.
8. The D. P. P. G. shall thereafter within a period of four weeks issue pension payment order in favour of the petitioner as the surviving husband of the deceased teacher, Rita Bhandary.

9. Let arrears of pension be paid to the petitioner from the date of death of the employee within a period of two months thereafter. In the facts and circumstances of the case, this Court is not inclined to award interest on the arrears pension.
10. Delayed payment of gratuity shall, however, carry interest @ 6% per annum from the date of death till the date of actual payment.
11. With the aforesaid observations, the instant writ petition shall stand disposed of.
12. There shall be no order as to costs.
13. Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities

(Rajasekhar Mantha, J.)