

25.06.2024
Court No.13
Item No.61
AP

WPA 11130 of 2024

**Anirban Majumder
Vs.
The State of West Bengal and Ors.**

Mr. Washef Ali Mondal

... For the Petitioner.

Mr. Biswabrata Basu Mallick

... For the State.

1. The petitioner has served as an Assistant Teacher at Tarajole Ayodhya Primary School under the DPSC, Hooghly and has superannuated from service on 30th September, 2020 from Banamali Mukherjee Institution F.P. School under the Baidyabati Circle. While he was in service, on a private complaint instituted against the petitioner by a third party, an FIR was registered under Sections 500/505 of the IPC and Section 66A of the Information Technology Act, 2005. He has obtained anticipatory bail.

2. The petitioner since after superannuation has been paid provisional pension. He has not paid gratuity and other terminal benefits.

3. Admittedly, the criminal proceedings against the petitioner are not related to the service of the petitioner. In addition thereto, Section 66A of the Information Technology Act of 2005 has since been struck down on 24.03.2015 by the Hon'ble Supreme Court in the case of

Shreya Singhal Vs. Union of India and Ors. reported in ***(2013) 12 SCC 73.***

4. Counsel for the petitioner relied upon two decisions of Coordinate Benches of this Court dated 18th December, 2015 in ***WPA 28290 of 2015 (Gunamay Mahato Vs. The State of West Bengal and Ors.)*** and in the case of ***Anadi Prasad Mahato Vs. State of West Bengal*** reported in ***2014 (2) CHN (Cal) 103*** to argue that pension cannot be withheld of an Assistant Teacher for pendency of criminal proceedings not arising out of or related to service of the teacher.

5. This Court has in several cases decided the said issue in favour of the employees. In view of the above circumstances, this Court directs the District Inspector of Schools (PE), Hooghly to calculate the last drawn pay and the full terminal benefits payable to the petitioner and forward the same to the DPPG, West Bengal within a period of one month from the date of receipt of a copy of this order.

6. Upon receipt of the calculations, the DPPG, West Bengal, shall issue a revised PPO indicating full pension and pay all arrears to the petitioner from the date of retirement till date.

7. Let other terminal benefits namely gratuity etc. also be released to the petitioner by the DPPG, West Bengal within a period of one month from the date of

receipt of calculations from the District Inspectors of Schools (PE), Hooghly.

8. With the aforesaid direction, the writ petition is allowed and disposed of.

9. There shall be no order as to costs.

10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)