

Ml- 05.08.2024
16 Ct.18
rkd

W.P.A. 10949 of 2022

Datakarna Mahata
-vs-
State of West Bengal & Ors.

Ms. Santi Das

....for the petitioner.

Mr. Bahskar Prasad Vaisya,
Mr. Ranjan Saha

...for the State.

Mr. Kunal Ganguly

....for the Board.

The petitioner is an Assistant Teacher in a Government aided Secondary School. Petitioner by presenting this writ petition has questioned the order of the District Inspector of Schools (S.E.), Jhargram dated 14th July, 2020 whereby prayer of the petitioner for release of arrear salary for the petitioner from 25th September, 2010 to 29th February, 2012 was turned down.

It has been submitted by Ms. Das, learned advocate representing the petitioner that it is true that petitioner could not attend the school during this period due to the reasons which is beyond his control and it was not an absence in his own volition rather petitioner could not discharge his duty being an Assistant Teacher; therefore he is entitled to receive salary during the aforesaid period upon regularizing the said period.

The learned advocate representing the respondents have opposed the prayer of the petitioner and have made submissions in order to defend the stand taken by the State respondents as it emanates from the order of the concerned District Inspector of Schools (S.E.), Jhargram dated 14th July, 2020.

On perusal of the said order dated 14th July, 2020, it appears that the petitioner was paid salary upto 24th September, 2010 in consideration of sanction of leave which was available to the petitioner as per leave statement at the material point of time. The petitioner applied before the school authority for sanction of leave without pay on and from 25th September, 2010 since as per leave statement of the petitioner the leave available to the petitioner was exhausted and the Managing Committee of the petitioner's school took decision to sanction leave without pay.

Such decision of the school authority was endorsed by the Assistant Secretary (General) of the West Bengal Board of Secondary Education vide memo dated 29th May, 2012 thereby directing the school authority to treat the period of absence of the petitioner with effect from 25th September, 2010 in terms of Rule 7 of Leave Rules as period

being spent on leave without pay.

Taking note of the decision as contained in the memo dated 14th July, 2020 taken by the District Inspector of Schools (S.E.), Jhargram based on the decision taken by the West Bengal Board of Secondary Education on application of Leave Rules it appears that in view of absence of the petitioner from 25th September, 2010 to 29th February, 2012 albeit salary was not allowed in his favour but the said period was regularized upon treating the period as spent on leave without pay.

It is further clarified that this period shall be treated as period spent on leave without pay for granting all service benefits and emoluments excepting arrear salary and the said period shall not treated as break in service.

Furthermore, it is also made clear that petitioner shall be entitled to receive retiral dues from the date of initial entry of the petitioner into service without taking into consideration this period from 25th September, 2010 to 29th February, 2012 as break in service.

With the aforesaid observations and directions the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this

order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)