

13.09.2024
Sl. No. 08
g.b.
Court No.18

W.P.A. 11800 of 2023

Ira Sarkar (Lahiri)
-Vs-
The State of W. B. & Ors.

Mr. Kaushik Dey
Mr. Soumyajit Mishra
... for the petitioner
Mr. Bhaskar Prasad Vaisay
Mr. Ranjan Saha
.....For the State
Mr. Soumya Majumder
Mr. Uttam Kumar Mandal
Mrs. Maitree Roy
.....For the NTPC Limited

By presenting this writ petition, inter alia, petitioner has prayed for release of retiral dues due to her superannuation on 30th June, 2020 reckoning her past service in National Thermal Power Corporation High School, Malda with effect from 13th March, 1987.

Learned counsel representing the petitioner submits that petitioner worked as an Assistant Teacher in NTPC High School, Malda from 13th March, 1987 till 4th February, 2003 and joined Baishnabnagar Vidyasagar Balika Vidyalaya (H. S.), Malda as Headmistress on 5th February, 2003. It is also contended that petitioner's past service with effect from 13th March, 1987 was taken into consideration by the respondent authorities while joining as Headmistress in Baishnabnagar Vidyasagar Balika Vidyalaya (H. S.), Malda.

In support of same reliance is placed on the recommendation memo dated 8th January, 2003 issued by the concerned authority of the West Bengal Regional School Service Commission, Northern Region, Malda

wherefrom it appears that petitioner was recommended for being appointed as Headmistress.

Therefore, it is further contended that when the petitioner's past service of more than 10 years was considered by the respondent authorities in appointing her as Headmistress why at the time of releasing pensionary benefits, the service of the petitioner would be reckoned from 5th February, 2003?

In terms of the previous order dated 23rd August, 2024 a report has been filed in the form of an affidavit on behalf of the District Inspector of Schools (S.E.), Malda which was affirmed on 12th September, 2024.

From the said report also it appears that service of the petitioner in Baishnabnagar Vidyasagar Balika Vidyalaya (H. S.), Malda was approved as Headmistress. The concerned District Inspector of Schools (S.E.), Malda issued an approval memo dated 1st September, 2006 wherefrom it further appears that the service of the petitioner as Headmistress was duly approved by the State respondents as Headmistress.

Question crops up whether petitioner is entitled to receive pensionary benefits treating her service from 5th February, 2003 or on and from 13th March, 1987. In pursuit of finding answer, this court is required to consider the nature of appointment, which was granted in favour of the petitioner in the second school with effect from 5th February, 2003.

On conjoint reading of recommendation memo dated 8th January, 2003 issued by the concerned authority of the West Bengal Regional School Service Commission, Malda and memo dated 1st September, 2006 issued by the District Inspector of Schools (S.E.), Malda it appears that petitioner was appointed as Headmistress in the second school with effect from 5th February, 2003 which goes to

show that past service of the petitioner was taken into consideration while appointing the petitioner as Headmistress in the second school.

In terms of the relevant recruitment Rules relating to appointment of Headmasters/Headmistress it has been specified that a teacher willing to be appointed in the post as Head of the Institution must possess requisite experience of 10 years' continuous approved service as Assistant Teacher. Therefore, if petitioner did not have 10 years approved service in a recognized school prior to her appointment as Headmistress with effect from 5th February, 2003 she would not have been adjudged as an eligible candidate for being appointed as Headmistress in the second school.

Appointment of the petitioner as Headmistress with effect from 5th February, 2003 supports the contention of the petitioner that her past service needs to be reckoned with while calculating pensionary benefits of the petitioner.

On behalf of the State respondents it has been submitted in order to resist the prayer of the petitioner that past service of the petitioner in NTPC High School with effect from 13th March, 1987 need not be reckoned since the school was unaided school. However, it appears from the order of the District Inspector of Schools, (S.E.), Malda dated 25th February, 2022 that West Bengal Board of Secondary Education approved services of all staff of NTPC High School from the date of joining in terms of letter no.879/G dated 16th February, 1995. Such finding of the concerned District Inspector of Schools negates the submission made on behalf of the State respondents that she is not entitled to receive the pensionary benefits on counting her service with effect 13th March, 1987.

In view of aforesaid discussion, the State respondents are directed to finalize the pension case of the petitioner treating her service with effect from 13th

March, 1987 and fix the pension of the petitioner accordingly.

After compliance of all formalities the concerned State respondents are directed to release all retiral dues including pension in favour of the petitioner on issuance of pension payment order within a period of ten weeks from the date of communication of this order.

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

There shall be no order as to costs.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Saugata Bhattacharyya, J.)