

22.05.2024
(D/L 20)
Ct.-18
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 14158 of 2024
Shayasi Kundu

Vs.

The State of West Bengal & Ors.

Ms. Debjani Sengupta,
Ms. Koyel Bag,
Mr. Abhijit Chatterjee, ... For the Petitioner.

Mr. Swapan Kumar Dutta,
Mr. Rajat Dutta ... For the State.

Affidavit-of-service filed on behalf of the petitioner be
kept with the record.

The petitioner is an approved Assistant Teacher at
Shibpur Chittaranjan Adarsha Vidyamandir(H.S.), District-
Howrah, she is alleging that her House Rent Allowance
(HRA) has been stopped on and from January, 2018. The
petitioner is praying payment of regular HRA and release of
arrears thereof with interest.

It appears from the record that the Special Secretary,
School Education Department, Government of West Bengal,
in terms of the Memorandum of the Finance Department
(Audit Branch), Government of West Bengal bearing No.
5839-F(P) dated July 09, 2012 had issued a Memorandum
bearing No. 68-ES/Audit/12-A47/14 dated November 16,
2017 to recover excess drawal of HRA and the District
Inspector of schools(S.E.), District-Howrah, the respondent
no. 5 herein, has forwarded the said Memorandum to all the
Heads of Institutions/Teacher-in-Charge of the schools under
his jurisdiction.

The School authorities, the respondent nos. 6 and 7
herein respectively, responding to the aforementioned

Memorandum, is not paying HRA to the petitioner on and from January, 2018.

The school authorities have applied the aforementioned Memorandum to suspend the HRA of the petitioner as her husband is an employee of a private company and is receiving HRA as a separate element.

A Coordinate Bench of this Court by the judgment dated March 16, 2021 passed in W.P.A. 1389 of 2018 (*Mousumi Biswas & Ors. vs. State of West Bengal & ors.*) has quashed the said memorandum bearing No. 5839-F(P) dated July 09, 2012 which is the source of the aforementioned Memorandum, therefore the suspension of the HRA of petitioner is not sustainable.

An appeal being **MAT 1023 of 2021** (*The State of West Bengal & Ors. vs. Mita Majumder & Ors.*) against the said judgment and order though is pending, but no order of stay has been passed in the said appeal.

In view of such position of the matter, the petitioner is entitled to the payment of regular HRA and release of arrears thereof, if any.

The concerned authority therefore, is directed to pay to the petitioner the regular HRA and the arrears of it, if any, be paid to her with interest @ 6% per annum from the date on which it was payable till the date of payment.

The arrears HRA is to be paid within a period of four weeks from the date of communication of this order.

It is made clear that HRA to be paid to the petitioner in terms of this order is subject to the result of the aforementioned pending appeal.

Since no affidavit-in-opposition has been invited, the allegations made in the writ petition are deemed to have denied by the respondents.

W.P.A. 14158 of 2024 is disposed with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)