

10.07.2024

WPA 14441 of 2024

**Rituparna Mishra
Vs.
The State of West Bengal & Ors.**

Mr. Tarun Kumar Das
Mr. Bhaskar Hutait

... .. for the petitioner

Ms. Sipra Majumder
Mr. Abhishek Banerjee

... .. for the State

1. The petitioner is aggrieved by order dated 20th March, 2024 passed by the S.I. of Schools, Patashpur South Circle, Purba Medinipur asking her to submit a declaration for deduction of overdrawn amount from the gratuity or refund the same in TR Form-7.
2. The reasons, according to the S.I. of Schools was that the husband of the petitioner was not entitled to 'A' category pay scale from the date of appointment, i.e. 20th January, 2006. Admittedly, the petitioner's husband was sponsored by the Employment Exchange and recruited as Assistant Teacher after he had acquired PTTE qualification in the year 2003-2004.
3. The petitioner's husband thereafter in the year 2012-2013 underwent a Bridge Course in terms of the notification of the State issued on 20th March, 2012 and 4th March, 2013 based on the notifications

of the School Education Department dated 31st December, 2005.

4. The said notification was based on the NCTE guidelines. The petitioner's husband was, however, treated as trained teacher from January, 2006 and drawing 'A' category pay scale. D.I. of DPPG, West Bengal is of the view that the petitioner's husband ought to have received 'A' category pay scale only after completing the one year Bridge Course in 2012-2013.
5. This Court has in several orders held that since NCTE guidelines required and in service teacher with one year training qualification to undergo a Bridge Course, 'A' category pay scale ought to have been made available to the petitioner only upon completing the Bridge Course in the year 2013.
6. Learned counsel for the petitioner, however, submits that in terms of the applicable Rules in the year 2006 the petitioner's husband being a trained teacher was entitled to 'A' category pay scale.
7. This Court at this stage in this proceeding is not inclined to decide the same in view of the observations made by a Division Bench of this Court dated 30th April, 2024 in MAT 76 of 2024 (Sikha Ghosh Roy Vs. The State of West Bengal & Ors.). The issue is kept open to the petitioner to pursue in an independent proceeding.

8. In terms of the dicta of the Supreme Court in the case of **State of Punjab Vs. Rafiq Masih (White Washer)** reported in **(2014) 8 SCC 883**, the employer is debar from recovering any excess amount drawn by the petitioner for no fault on his part. The respondent shall therefore not be entitled to demand any refund or seek any declaration from the petitioner towards refund, as indicated in the impugned order.
9. The respondent D.I. of Schools shall, however, be entitled to recalculate the actual pay receivable by the petitioner's husband as on the date of his death and forward calculations in a report to the DPPG, West Bengal within a period of one month from the date of receipt of a copy of this order along with a copy of the writ petition.
10. Upon receipt of the report from the D.I. of Schools, DPPG shall issue PPO to the petitioner and she shall be entitled to pension from 6th May, 2023 together with all other death/terminal benefits on account of her husband's service. Pension shall, however, would be payable to the petitioner based on the salary and emolument that may be calculated by the D.I. of Schools based on the status of the petitioner's husband.
11. Let the DPPG issue PPO within a period of three weeks from the date of receipt of the report from the

D.I. of Schools. Let arrears be paid to the petitioner within a period of one month from the issuance of PPO together with interest at the rate of 7 per cent per annum.

12. As already stated hereinabove, the issue of quantum of the petitioner's pension is left open to be agitated in a separate independent proceeding. The impugned memo dated 20th March, 2024 shall stand set aside.
13. With the aforesaid directions, the instant writ petition shall stand disposed of.
14. There will be no order as to costs.
15. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)