

04.01.2024  
SL No.11 wt 12  
Court No.8  
(gc)

**MAT 1050 of 2021  
CAN 1 of 2021  
CAN 2 of 2022  
CAN 3 of 2023**

**Anarul Islam  
Versus  
The State of West Bengal & Ors.**

**With**

**MAT 1051 of 2021**

**Anarul Islam  
Versus  
The State of West Bengal & Ors.**

Mr. Anindya Bose, Adv.  
Mr. Nikhil Kr. Gupta, Adv.  
...for the Appellant in  
both matters.  
Mr. Santanu Maji, Adv.  
...for the School.  
Mr. Jayanta Samanta, Adv.  
Mr. Jahar Dutta, Adv.  
Mr. Kushal Biswas, Adv.  
...for the State.  
Mrs. Koyeli Bhattacharyya, Adv.  
...for the W.B.B.S.E.

1. The report filed by the Office of the District Inspector of Schools dated 2<sup>nd</sup> January, 2024 shows that provisional payment papers have been processed and sanctioned in favour of the appellant who retired from service on 30<sup>th</sup> September, 2022. However, the entitlement of the pension is dependent upon the report to be filed by the D.I. with regard to the alleged unauthorised leave of 543 days. It appears that D.I. in its letter dated 6<sup>th</sup> March,

2017 has stated that on verification of the attendance register, the appellant enjoyed unauthorized leave for about 543 days and he was absent on the day of visit of the D.I. The school also could not make available record and materials justifying the continuation of such unauthorized leave of the Ex-Headmaster for 543 days. The D.I. has recorded certain irregularities in the functioning of the Ex-Headmaster in its letter dated 6<sup>th</sup> March, 2017.

2. The learned Single Judge in the impugned order dated 9<sup>th</sup> September, 2021 directed the Director of School Education to initiate an enquiry against the D.I. or the D.I.s as the case may be who worked as District Inspector(s) of Schools in the District of Murshidabad from March, 2017 to 31<sup>st</sup> January, 2020. By a subsequent order dated 16<sup>th</sup> September, 2021 the Board was directed to initiate disciplinary proceeding against the Headmaster. The Headmaster was, however, kept under suspension pending the disciplinary proceeding. This order was, however, stayed by the Coordinate Bench and Headmaster was allowed to join and resume his duty on 15<sup>th</sup> July, 2022 and thereafter he retired from service. A question now falls for

consideration is whether the appellant would be entitled to full pensionary benefits after his retirement.

3. We are of the view that the Board is required to consider the issue with regard to the unauthorized absence of the Headmaster for almost 543 days as recorded in the order dated 9<sup>th</sup> September, 2021 which clearly refers to the letter dated 6<sup>th</sup> March, 2017.
4. The learned Counsel for the appellant has, however, drawn our attention to the letter dated 2<sup>nd</sup> August, 2018 addressed to the Administrator of the school by the District Inspector of Schools (S.E.), Murshidabad in which the Administrator of the school was requested to send the proposal of unauthorized leave to the Board in order to get it sanctioned and the teacher-in-charge of the school was also requested to prepare a comprehensive leave statement of the Headmaster along with Sajal Bhowmik, Assistant Teacher of the School who also was on unauthorized leave and the same should be done in consultation with Staff council of the school.
5. Accordingly, Administrator is directed to take a decision on the unauthorized leave in terms of the letter dated 2<sup>nd</sup> August, 2018 and

forward the same to the Board for taking a final decision in this regard. In the event the Board is of the view that the unauthorized leave can be sanctioned and disciplinary proceeding can be dropped the matter may be closed otherwise suitable proceeding may be initiated against the Ex-Headmaster.

6. The D.I. shall also take a decision with regard to the subsistence allowance payable to the appellant during the period of suspension within a period of four weeks from date.
7. With the aforesaid observation, both the appeals and the connected applications are disposed of.
8. However, there shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**