31.01.2024
(S/L-1)
Ct.-18
(P. Jana)

W.P.A. 15371 of 2021

Swarup Nandi
-Vs-
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. Syed Masur Ali,
Mr. Sk. Imtiaj Uddin,
.... For the Petitioner.
Mr. Razaul Hossain,
.... For the State.
Mr. M. Ahmed,
...For the respondent no. 7.

The petitioner was a Group-D employee of Prosadpur High School, Jangipara, District-Hooghly.

On attaining the age of superannuation, the petitioner has retired from the said service on January 31, 2020.

The petitioner is challenging the Memo bearing No. 56-SE(S)/5P-28/2020 dated January 25, 2021 whereby the Joint Secretary, School Education Directorate (Secondary Branch), Government of West Bengal, the respondent no. 4 herein has refused to grant him the permission to deposit the contribution of the Government in his provident fund account enabling him to avail the benefit of pension.

It appears from the record that though the initial appointment of the petitioner was on November 02, 1979 but approval of such appointment was accorded on May 12, 2005 with effect from November 02, 1979 by the

Additional District Inspector of Schools(S.E.), Serampore, Distict-Hooghly ('the concerned ADI' in short) vide Memo bearing No- 150/SER dated May 12, 2005.

It is pertinent to mention here that the said approval was accorded in compliance with the order dated November 16, 2004 passed by the learned Single Judge in WP 1391 (W) of 1999.

The petitioner, pending approval of his said appointment, in the year 1990 had exercised option to switch over from the C.P.F Scheme to G.P.F. Scheme.

The petitioner, after the approval of his appointment, through school sought permission from the authorities to deposit the contribution of the Government in his provident fund account with interest and additional interest.

The concerned ADI forwarded the said prayer to the Deputy Director of School Education (G.A), West Bengal.

The said authority by the letter dated January 07, 2020 sought clarification on some points, in response thereof, the concerned ADI by his letter bearing No. 91/SER dated February 03, 2020 supplied the said information and again sought for such permission.

It appears from the impugned Memo that the respondent no. 4 has placed reliance on the observation of the Finance (Audit) Department dated January 11, 2021 to refuse the prayer of the petitioner.

Mr. Hossain, learned advocate for the State, draws my attention to the said observation of the Department dated January 11, 2021, which is entirely misplaced in the facts of the present case inasmuch as the petitioner had exercised the option to switch over from C.P.F. scheme to G.P.F. scheme within time but the said exercise was incomplete since his appointment was not approved at the said point of time, however the option so exercised was complete as soon as the appointment of the petitioner was approved with effect from the date of his initial appointment.

Record speaks that the contribution of the Government in the provident fund account of the petitioner could not be refunded due to the mistake of the school authority, for which the petitioner cannot be made to suffer.

Mr. Ahmed, learned counsel for the school authority, submits that the school has already calculated the amount required to be refunded by the petitioner to avail the benefit of pension.

The school authority is directed to forward the said calculation to the District Inspector of Schools (SE), Hooghly, the respondent no. 3 herein who, on receipt of the said calculation shall verify it and shall forward the same for further verification to the Deputy Director (Accounts), Finance Department.

Upon completion of such verifications, the petitioner shall be notified by the respondent no. 3 requiring him to deposit the said amount in the relevant Treasury and after refund of the said amount, the said respondent shall take forward steps for disbursement of retiral benefits, including pension in favour of the petitioner.

The exercise in this regard shall be completed within a period of two months from the date of the refund of the said amount.

WPA 15371 of 2021 is thus **disposed of** with the above terms without any order as to costs.

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

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(Biswajit Basu, J.)