

ML 233
25.09.2024
Ct. No. 18
adeb

W.P.A. 16110 of 2023

Papia Adhvaryu
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Syed Mansur Ali
..for the petitioner

Mr. Biswabrata Basu Mallick
...for the State

Affidavit of service filed on behalf of the petitioner
is taken on record.

By presenting this writ petition order of the Deputy
Secretary, Government of West Bengal dated 23rd
February, 2022 and the order of the Assistant Secretary,
Government of West Bengal dated 29th November, 2021
are questioned.

Mr. Ekramul Bari, learned advocate representing
the petitioner submits that husband of the petitioner is
working at a place which is 403 kilometers away from the
place of work of the petitioner as it emanates from a
document which is at page 91 of the writ petition. Vide
memo dated 21st September, 2020 the District Inspector
of Schools (SE) Bankura forwarded the prayer of the
petitioner for payment of full house rent allowance in
favour of the petitioner since petitioner and her husband
are working at two different places and the distance in
between these two working places is approximately 403

kilometers. On behalf of the petitioner it is submitted that since she is required to run a separate establishment for serving as a teaching staff in a school at Bankura, she is entitled to receive full house rent allowance in terms of the memorandum dated 27th July, 2011 being no. 955-SE(Law)/SL/5S-12221/09. It is specifically submitted that in terms of Clause 2(c) and Clause 2(d) of the said memorandum dated 27th July, 2011 the claim of the petitioner stands fortified considering the distance in between places of work of the petitioner and her husband i.e. approximately 403 kilometers.

In reference to the decisions taken first by the Assistant Secretary dated 29th November, 2021 and subsequently by the Deputy Secretary dated 23rd February, 2022 it is submitted that such decisions depict non application of mind since the period which is under consideration by the State-respondents for release of full house rent allowance is 16th January, 2012 to 25th July, 2014 and 7th October, 2016 to 30th June, 2020. Therefore, the claim of the petitioner needs to be considered in the light of the memorandum dated 27th July, 2011 and on the ground that this memorandum dated 27th July, 2011 has no retroactive operation the claim of the petitioner cannot be frustrated.

State-respondents are also represented by learned advocate who has made submissions in order to defend

the decisions of the Assistant Secretary dated 29th November, 2021 and Deputy Secretary dated 23rd February, 2022 and it is contended that the object of aforesaid memorandum dated 27th July, 2011 is different. Therefore, there is no ambiguity in the decisions taken by the concerned respondent authorities denying claim of the petitioner.

Having considered the submissions made on behalf of the parties and taking note of the observations made by the concerned State-respondents in two separate orders dated 29th November, 2021 and 23rd February, 2022 it transpires that the claim of the petitioner for payment of full house rent allowance for the period from 16th January, 2012 to 25th July, 2014 and 7th October, 2016 to 30th June, 2020 has been spurned solely on the ground that the notification dated 27th July, 2011 has no retroactive operation. However, taking note of the period which was under consideration by the concerned State-respondents and the date of the relevant memorandum i.e. 27th July, 2011 it was not required so far State-authorities are concerned to find out whether the notification dated 27th July, 2011 has retroactive operation or not. Even the Court proceeds on the premise that 27th July, 2011 has prospective effect in that event also considering the periods as delineated in the order dated 23rd February, 2022 relating to release of full house rent allowance it appears that the issue comes

under the purview of the Government Memorandum dated 27th July, 2011.

In above conspectus the impugned orders dated 29th November, 2021 issued by the Assistant Secretary to the Government of West Bengal and subsequent impugned decision dated 23rd February, 2022 issued by the Deputy Secretary, Government of West Bengal stand set aside.

The Commissioner of School Education, West Bengal being respondent no. 2 is directed to re-visit the issue and decide whether petitioner is entitled to receive full house rent allowance for the period from 16th January, 2012 to 25th July, 2014 and 7th October, 2016 to 30th June, 2020 in the light of the aforesaid Government Memorandum dated 27th July, 2011 and pass a reasoned order within a period of 8 (eight) weeks from the date of communication of this order.

It is made clear that while taking decision the respondent no. 2 shall take into consideration the observations of this court as alluded above.

The writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)