

25.07.2024
Court No. 18
Item No. 10
(Suvendu)

WPA 17033 of 2024

Padmavathi Sakkinala
-Versus-
State of West Bengal & Ors.

Mr. Ujjal Ray
Mr. Arpa Chakraborty
.....for the petitioner

Mr. Arindam Chosh
.....for the State

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
.....for the WBCSSC

Ms. Koyeli Bhattacharyya
.....for the WBBSE

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

The petitioner by presenting this writ
petition has prayed for sanction and release of
actual financial benefits with effect from
November, 2013 since it has been submitted by
Mr. Ray, learned advocate representing the
petitioner that on appointing petitioner with
effect from 7th November, 2020 such benefits
have been denied to her.

Petitioner participated in 12th RLST 2011 and appointment was not contemporaneously given to her on being selected for the post of Assistant Teacher in Government aided school and subsequently petitioner was appointed with effect from 7th November, 2020. Much reliance has been placed on the order of a Coordinate Bench dated 18th April, 2022 passed on a writ petition being WPA 12722 of 2021 wherein by making certain observations leave was granted to petitioner to file fresh representation before the Principal Secretary, School Education Department and the Principal Secretary, School Education Department was directed to pass a reasoned order on the claim of the petitioner for releasing pecuniary benefits from November, 2013. The Principal Secretary, School Education Department in his turn has passed an order dated 23rd June, 2022 wherein on making favourable recommendation the issue was forwarded to the Finance Department, Government of West Bengal for taking final call. Subsequently, the concerned District Inspector of Schools (SE), Paschim Medinipur granted notional benefit in favour of the petitioner with effect from November, 2013 thereby fixing

notional Basic Pay of petitioner at Rs. 12750/- including Grade Pay Rs. 4100/- in November, 2013 under ROPA 2009 and the date of option which was to be exercised by the petitioner was notionally treated on 1st January, 2016 under ROPA 2019 and the pay of the petitioner was accordingly fixed.

During course of hearing, attention of this Court has been drawn to the memo dated 19th June, 2024 issued by the Assistant Secretary, School Education Department, Government of West Bengal containing observation of the Finance Department.

Respondents are represented by the learned advocates who have opposed the prayer of the petitioner in view of the steps taken by the concerned District Inspector of Schools vide memo dated 14th July, 2022 whereby notional benefits have already been granted in favour of the petitioner.

Having considered the submissions made on behalf of the petitioner and the respondent authorities, it appears that petitioner was appointed as an Assistant Teacher on 7th November, 2020 in connection with selection process of 12th RLST 2011. Petitioner is being

paid her salaries and emoluments regularly from 7th November, 2020 and the claim of the petitioner is sanctioning actual monetary benefits from November, 2013 on the plea that had there been correct appraisal of candidature of the petitioner in connection with selection process of 12th RLST, 2011 she would have been appointed in 2013.

In terms of order passed by a Coordinate Bench on 18th April, 2022, the Principal Secretary, School Education Department has forwarded the issue to the Finance Department, Government of West Bengal for taking final call and ultimately the concerned District Inspector of Schools has granted notional benefits in favour of the petitioner upon fixing Basic Pay of petitioner at Rs. 12750/- including Grade Pay of Rs. 4100/- in November, 2013 under ROPA 2009 and notionally treating date of option of petitioner as 1st January, 2016 under ROPA 2019 pay of petitioner was also upwardly fixed.

Such stand taken by the concerned District Inspector of Schools has been endorsed by the Finance Department, Government of West Bengal, as it has been communicated by the Assistant Secretary, School Education

Department vide memo dated 19th June, 2024. The Finance Department observed on 19th June, 2024 that pay and allowances become admissible only when a person is duly employed and discharges duties. The Finance Department has taken a specific stand that pecuniary benefits are not payable to petitioner since petitioner did not discharge duty from November, 2013.

This Court in appreciation of the facts as narrated on behalf of the parties does not find flaw in the decision taken by the Finance Department being observed on 19th June, 2024 and the steps taken by the concerned District Inspector of Schools vide memo dated 14th July, 2022 thereby notionally fixing pay of the petitioner appears to be in sync with the decision of the Finance Department, needs no interdiction. It is trite that without formally being appointed in the post of Assistant Teacher the petitioner cannot claim actual arrear benefits.

However, it is clarified that for computation of service benefits including retiral dues and pension the service of the petitioner

shall be reckoned with effect from November, 2013.

With the aforesaid clarification, the writ petition stands disposed of.

However, prayer of the petitioner for grant of actual financial benefits from November, 2013 stands refused.

There shall be, however, no order as to costs.

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

(Saugata Bhattacharyya, J.)