

24.07.2024
Ct. No. 18
Sl. No. 10
tbsr

WPA 17705 of 2024

**Manika Halder @ Manika Singha
Vs.
The State of West Bengal & Ors.**

Mr. Sobhan Majumder
....for the petitioner

Mr. Santanu Kumar Mitra
Mr. Subhabrata Das
....for the State

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

By presenting this writ petition, the petitioner being an Assistant Teacher in a government aided school has prayed for release of subsistence allowance for the period when the petitioner was taken into custody i.e. from 15th June, 2012 to 9th January 2016. It has been submitted that the petitioner has been implicated in a criminal case and the said criminal proceeding is still pending. It is also the contention of the petitioner that aforesaid period of detention should be treated as a period of deemed suspension since he was taken into custody for more than 48 hours. However, it is submitted on behalf of the petitioner that no formal suspension order has been issued by the school authority where petitioner is serving. After petitioner

was enlarged on bail he was allowed to resume his duty on and from 6th July, 2016.

State respondents are represented by learned advocates who submits on instruction that necessary papers relating to period of absence of the petitioner, when the petitioner was taken into custody, have been forwarded to the office of the District Inspector of Schools for taking decision.

Having considered the submissions made on behalf of the parties and taking into consideration the relevant facts, it appears that in spite of the fact the petitioner was taken into custody for the period from 15th June, 2012 to 9th January, 2016 no formal suspension order was passed by the school authority. In terms of relevant provisions of Management Rules of 1969 which was in vogue at the material point of time the period of detention should be treated as a periods spent on deemed suspension. The appropriate authority to take decision on suspension of a teacher at the material point of time was West Bengal Board of Secondary Education.

The President of the Board is directed to take decision, if not already taken, as to how the period of absence of the petitioner is to be treated when he was taken into custody.

Leave is granted to the petitioner to make a comprehensive representation to the President, West

Bengal Board of Secondary Education by fortnight from date enclosing necessary documents and order granting bail. If such representation is made by the petitioner within the aforesaid period, the President of the Board is directed to take decision within four weeks from the date of receipt after granting opportunity of hearing to the petitioner and the school authority or their representatives. The decision to be taken by the President of the Board shall be communicated to the parties within one week thereafter.

If decision is taken by treating the aforesaid period of absence when the petitioner was taken into custody as period spent on deemed suspension, necessary steps shall be taken by the State respondents for release of subsistence allowance.

Leaved is granted to the learned advocate for the petitioner to amend the cause title and add President, West Bengal Board of Secondary Education as additional respondent in course of this day.

Accordingly, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Saugata Bhattacharyya, J.)

