

WPA 17663 OF 2018

Narendra Kumar Sinha

Vs.

State of West Bengal & Ors.

Mr. Saibal Kumar Acharyya

Ms. Renesa Dey.

....For the Petitioner

Mr. Bhaskar Prasad Vaisya

Mr. Suman Dey.

....For the State

This is a hearing matter upon affidavits.

Ms. Renesa Dey learned advocate led by Mr. Saibal Kumar Acharyya, learned counsel appears for the petitioner.

Mr. Suman Dey, learned State counsel led by Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader appears for the respondent nos. 1 to 4.

The petitioner was an assistant teacher. His appointment was approved on September 16, 1992 by the State authority. By a Memo dated February 12, 1996 the petitioner was granted Honours Scale and then by another Memo dated April 16/24, 1998 the competent authority granted M.A. Scale to the petitioner with effect from May 1, 1996. The petitioner subsequently was appointed as a Head Master at a later school. The petitioner is still in service. The petitioner claims his

Provident Fund dues which are required to be transferred to the subsequent school.

Referring to the impugned communication dated August 6, 2018, Annexure-P4 at page 26 to the writ petition issued by the respondent no.3 Mr. Suman Dey, learned State counsel submits unless all the records are placed before the respondent no.3 no decision can be taken and, as such, the substance of the said communication was absolutely true and correct.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, to subserve justice, the respondent no.3 shall decide the issue **afresh** after issuing a prior hearing notice of at least seven days to the petitioner, the respondent nos. 6, 7 and the respondent no.8 and then after giving them an opportunity of hearing shall pass a reasoned order in accordance with law,

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **six weeks** from the date of communication of this order.

The respondent no.3 shall then communicate the reasoned order to the petitioner, the respondent nos. 6, 7 and 8 positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner

and the petitioner and all the parties who shall be attending the hearing before the respondent no.3 shall be at liberty to urge whatever points they wish to urge by relying upon whatever records, documents, notifications, Government Memos and Orders passed on the issue.

In the event the reasoned order goes in favour of the petitioner, the respondent no.3 and/or any other State authority shall give an immediate and consequential effect thereto positively within a period of **four weeks** from the date of communication of the said order.

In the light of the above, the impugned communication dated **August 6, 2018, Annexure-P4 at page 26** to the writ petition, stands **set aside** and **quashed**.

It is further made clear that, this order shall not create any right or equity in favour of the petitioner, if the petitioner is not eligible to receive his claim in totality strictly in accordance with law.

The respondent no.3 shall be at liberty to apply its independent mind and decide the issue strictly in accordance with law and without being influenced by observation, if any, made by this Court.

With the above observation and directions this writ petition, **WPA 17663 of 2018** stands **disposed of** without any order as to costs.

Photostat certified copy of this order, if applied for,
be furnished expeditiously.

(Aniruddha Roy, J.)