

WPA 16057 OF 2012
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CAN 4 of 2018 (Old No. CAN 5270 of 2018)

17.09.2024

Sl no. 22

Ct no. 551

P.M.

Md. Rabbul & Ors..

- Vs -

The State of West Bengal & Ors.

Mr. Sandipan Banerjee,
Mr. Uday Narayan Betal,
Mr. Bhaskar Hutayet,
Ms. Utsa Dutta
... for the petitioners.
Mr. Naba Kumar Das
Ms. Deblina Mukherjee
... for the State

1. Affidavit of service as filed today on behalf of the petitioners is taken on record.
2. Learned advocate for the writ petitioner craves leave to file a supplementary affidavit. Leave as prayed for is granted. Supplementary affidavit as filed on behalf of the petitioner is taken on record.
3. Despite service none appears on behalf of the respondent No. 3 and 4 i.e. the District Primary School Council Malda and the Chairman, District Primacy School Council, Malda
4. The learned advocate for the State is however present.

5. By filing the instant writ petition the petitioners have prayed for issuance of appropriate writ/writs against the respondents for release of their all arrears, emoluments and other service benefits with effect from March 5, 2010 along with other ancillary reliefs.
6. In course of his submission learned advocate for the petitioners at the very outset submits before this Court that initially the writ petitioners had worked as enumerators from 1981 to 1991.
7. It is contended on behalf of the writ petitioners that in the year 1994 a notification was issued for appointment of primary teachers in different primary schools including the appointment of the exempted category candidates for the vacant posts.
8. It is the further case of the petitioners that the present writ petitioners came under the exempted category.
9. It is submitted further that under a selection process though some similarly circumstanced persons were given

appointments as Assistant Teacher by the District Primacy School Council, Malda that is the respondent No. 3 herein but the writ petitioners have been listed under the heading “list for held over candidates of DSE” by the respondent No. 4.

10. The aforesaid action of the respondent No. 4 dated 05.03.2010 was challenged before this Court in W.P. 8945 of 2010 wherein a co-ordinate Bench of this Court passed the following order dated 29.11.2010 which is quoted below in verbatim :

“After considering the submissions made by the learned advocates for the parties and upon perusing the instant application, it appears beyond any shadow of doubt that the petitioners have been selected for the post of assistant primary teacher by the concerned Primary School Council on his own merit. The concerned Council has, thereafter, obviously acted on the basis of the directions contained in the order dated 11th April, 2008, by allowing the petitioners to participate in the selection process. Thus, there cannot be any valid justification for

withholding issuance of the appointment letter in favour of the petitioners, subject of course, to the approval of the Director of School Education, Government of West Bengal. The petitioners are, thus, entitled to get relief from this Court.

In such circumstances, the instant writ application is disposed of with a direction upon the Director of School Education, West Bengal, to take appropriate steps in the matter and grant approval in favour of the petitioners, in the event they conform to and fulfill all statutory requirements necessary for the purpose of securing their appointment. It is expected that the Director of School Education, West Bengal, shall take a decision with regard to the above, as expeditiously as possible, preferably within a period of four weeks, but not later than six weeks from date of communication of a Photostat certified copy of this order. In the event, the Director of School Education, West Bengal, grants approval in favour of the writ petitioners, the Chairman of the concerned Council shall issue appointment letter in

favour of the writ petitioners within a weeks therefrom.”

11. It is submitted that pursuant such order dated 29.11.2010 the present writ petitioners have been appointed by the respondent No. 3 as Assistant Teachers in different primary schools.
12. It is submitted that though all the writ petitioners have already been superannuated from their services but they have been deprived from their retiral benefits including pensionary benefits for the reason best known to the respondent No. 3 and 4.
13. At this juncture learned advocate for the petitioners took me a supplementary affidavit as filed today on behalf of the writ petitioner, a copy of which has already been served upon the learned advocate for the State in Court today.
14. It is further submitted that from the supplementary affidavit as filed today it would reveal that the petitioner No. 19 Md. Elias joined his service on 10.09.2011 and he died in harness on 01.10.2015 and on

account of death of the writ petitioner No. 19 Md. Elias, since deceased, steps have been taken by the respondent authorities for disbursing family pension in favour of his wife Sufia Begum which is explicit from annexure P/19 at page 6 of the supplementary affidavit as filed today.

15. It is submitted that the respondent No. 6 cannot take a double stand in respect of the remaining writ petitioners though they were appointed as Assistant Teacher by the respondent No. 3 and 4 pursuant to the order dated 29.11.2010 as passed by a coordinate Bench in W.P. 8945 (W) of 2010.
16. It is submitted that the action and/or non-action of the respondent authorities specifically respondent No. 3 and 4 authorities are violative of Article 14 of the Constitution of India.
17. On perusal of the entire materials as placed before this Court and as discussed (supra) and after hearing the learned advocates for the petitioners this Court considers that the present writ petitioners are successful in showing that the writ petitioners cannot be

treated in a different perspective especially with regard to their entitlement of retirement benefit as well as pensionary benefits.

18. In view of such, while disposing the instant writ petition this Court directs the respondents No. 3 and 4 authorities that is the District Primary School Council, Malda and the Chairman, District Primacy School Council, Malda for treating the instant writ petition as a representation of the writ petitioners except writ petitioner No. 19 (who had died in the meantime)
19. The respondent No. 3 and 4 are further directed to provide a reasonable opportunity of hearing to each of the writ petitioners and/or their learned advocates and/or to both individually and thereafter shall pass a separate individual independent reasoned orders with regard to the entitlement and disbursement of the retirement benefits including pensionary benefits of the writ petitioners and shall communicate the same to the writ petitioners independently and separately by Speed Post.

20. It is further made clear that the entire process that is hearing of the representations, consideration thereof and communication of the reasoned order/orders shall have to be completed within three months from the date of communication of the server copy of this order along with a copy of the instant writ petition including its annexures and the copy of the supplementary affidavit including its annexures as filed today.
21. The respondent No. 3 and 4 District Primary School Council Malda and the Chairman, District Primacy School Council, Malda are directed to act on the server copy of this order.
22. With the aforementioned observations the instant writ petition and the connected application are disposed of.
23. Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Partha Sarathi Sen, J.)