

03.10.2024
Court No. 18
Item No. 313 (ML)
(Suvendu)

WPA 20649 of 2023

Tarit Kumar Ghosh & Ors.
-Versus-

The State of West Bengal & Ors.

Mr. N.G.Mukherjee
Mr. Kaushiki Chakraborty
.....for the petitioner

Mr. Shamim Ul Bari
Ms. Nilanjana Banerjee Paul
.....for the State

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

Petitioners are legal heirs of one Banka
Shyam Ghosh who worked as Assistant Teacher
from 1st January, 1962 to 18th July, 1968 and
thereafter went missing.

Reliance is placed on a certificate dated 7th
December, 1982 issued by the Officer-in-Charge,
Burwan Police Station, Murshidabad wherefrom
it appears that son of the teacher namely Tarit
Kumar Ghosh, being petitioner no. 1 when
found his father went missing went to Burwan
Police Station and lodged missing diary based on
which General Diary was entered being Burwan
Police Station General Diary entry no. 978 dated
26th December, 1978. It is submitted that
mother of the petitioners died on 20th November,

2007. Therefore, petitioners are entitled to receive life time arrear family pension which was payable to the mother of the petitioners in view of the fact that father went missing in 1968.

Previously, writ petition was filed being WPA 2560 of 2020 which was disposed of by a Coordinate Bench on 16th December, 2021 directing the Secretary, School Education Department to take decision on the claim of the petitioners. In terms of the order dated 16th December, 2021, passed by a Coordinate Bench, the Principal Secretary, School Education Department passed an order dated 24th January, 2022 whereby claim of the petitioners was rejected on the ground that conditions as contained in the Government Memorandum no. 47-SE(B)/ 1M-240/2002 dated 12th February, 2004 have not been complied with.

Learned advocate representing State respondents has made submissions to defend decision of the Principal Secretary, School Education Department and it has been submitted that such decision has been taken in terms of the said Government Memorandum dated 12th February, 2004.

However, considering the impugned order dated 24th January, 2022 passed by the

Principal Secretary, School Education Department, being respondent no. 1 it transpires that the certificate of the Officer-in-Charge, Burwan Police Station dated 7th December, 1982 was not taken into consideration. Had there been due consideration of such certificate dated 7th December, 1982 that would reveal that petitioner no. 1 went to the concerned Police Station after his father went missing and a General Diary was lodged having entry no. 978 dated 26th December, 1978. Such steps taken by the petitioner no. 1, which emanates from the certificate dated 7th December, 1982 fulfils first condition as stipulated in the Government Memorandum no. 47-SE(B)/ 1M-240/2002 dated 12th February, 2004.

Learned advocate representing the petitioners submits that petitioners have furnished Indemnity Bond before the concerned State authorities.

In view of the aforesaid scenario and the submission made that Indemnity Bond has been submitted before the concerned State authorities, the order dated 24th January, 2022 issued by the Principal Secretary, School Education Department stands set aside.

The Principal Secretary, School Education Department, being respondent no. 1 is directed to take decision afresh on the entitlement of the petitioners to receive lifetime arrear family pension which was payable to their mother since father of the petitioners went missing. While taking decision, General Diary lodged with the concerned Police Station shall be a relevant consideration. Since first condition has already been fulfilled, as it appears from the certificate dated 7th December, 1982 issued by the Officer-in-Charge, Burwan Police Station.

In addition thereto, the report submitted by the Circle Inspector of Police, Khargram, Murshidabad PD dated 19th February, 2023 addressed to the Superintendent of Police, Murshidabad PD supports the case of the petitioners.

It is also clarified that if Indemnity Bond is furnished as it has been submitted by the learned advocate representing the petitioners and if the Principal Secretary, School Education Department is satisfied to that extent, necessary order shall be passed for releasing lifetime arrear family pension in favour of the petitioners which was payable to their mother. Appropriate order shall be passed by the Principal Secretary,

School Education Department by eight weeks from the date of communication of this order after granting opportunity of hearing to the petitioners or their representative.

With the above observations and directions, the writ petition is disposed of.

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.)