

A-79 18.1.2024
Sc Ct. no.22

WPA 18065 OF 2010

Dr. Supriya Panja

Vs.

State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Imtiaj Uddin.

....For the Petitioner

Mr. Gourav Das

....For the Respondent
Nos. 1 to 3

The petitioner claims to be a **Ph.D.** holder teacher. The petitioner claims that, he has received the additional two increments but when the school authority sought for post facto approval, **Annexure-P2 at page 23** to the writ petition, the additional two increments were rejected by the impugned decision dated **August 9, 2010, Annexure-P5 at page 33** to the writ petition, taken by the respondent no.2.

Assailing the said impugned decision dated **August 9, 2010** the petitioner has filed this writ petition.

Mr. Ekramul Bari, learned counsel for the petitioner referring to the said impugned decision submits that, no reason whatsoever was ascribed therein as to why the claim of the petitioner was rejected.

Mr. Gourav Das, learned State counsel appears for the respondent nos. 1 to 3.

After considering the submissions made on behalf of the parties and upon perusal of the materials-on-

record and on a close scrutiny of the said impugned order dated **August 9, 2010** it appears to this Court that, no reason whatsoever was mentioned in the impugned order dated August 9, 2010. On this ground alone it is sufficient that, the said impugned order cannot sustain in law.

To subserve justice this Court is of the opinion that, an authority higher than the respondent no.2 shall have to revisit the issue.

Mr. Gourav Das, learned State counsel submits that, the Commissioner of School Education is the appropriate authority.

In the opinion of this Court, the issue has to be decided by the **Secretary, School Education Department, State of West Bengal** (for short the Secretary).

The Secretary shall issue a prior hearing notice of at least seven days to the petitioner, the respondent nos. 3 and 4 and then after giving them an opportunity of hearing shall decide the issue by passing a reasoned order on the basis of the existing materials on which the impugned order dated **August 9, 2010** was passed.

The respondent nos. 2 and 3 shall transmit all the relevant records before the Secretary positively within a period of **two weeks** from the date of communication of this order.

The Secretary then shall carry out and complete the entire exercise, as directed above, positively within a period of **six weeks** from the date of receiving the records from the respondent nos. 2 and 3.

The Secretary then shall communicate its reasoned order to the petitioner and the respondent nos. 3 and 4 positively within a period of **two weeks** from the date of the reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the petitioner and the respondent nos. 3 and 4 shall be at liberty to urge all the points but not beyond the existing records on which the impugned order dated **August 9, 2010** was passed.

It is also made clear that, the petitioner shall be at liberty to participate in the hearing before the Secretary by himself or by his duly authorised representative.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

An interim order was passed by a coordinate Bench on **August 27, 2010** restraining the respondents from making any recovery from the petitioner without leave of the Court. ***Such interim order shall continue till the reasoned decision is communicated to the petitioner.*** The moment the reasoned order shall be communicated to the petitioner, the interim order ***shall lose its force***

automatically and ***without any reference to this Court.***

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

It is needless to mention that, the Secretary shall decide the issue by applying his independent mind and strictly in accordance with law without being influenced by any observation, if made by this Court.

Accordingly, the impugned order dated ***August 9, 2010, Annexure-P5 at page 33*** to the writ petition stands ***set aside*** and ***quashed***.

On the above terms this writ petition, ***WPA 18065 of 2010*** stands disposed of, without any order as to costs.

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

(Aniruddha Roy, J.)