

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 22382 of 2024

Bithi Sarkar

Versus

The State of West Bengal & Ors.

For the petitioner : Mr. Soumya Mukherjee

For the State : Mr. Swapan Kr. Dutta
Mr. Rajat Dutta

Heard on : 27.09.2024

Judgment on : 27.09.2024

JAY SENGUPTA, J:

This is an application, inter alia, praying for release of House Rent Allowance, current and arrears, in favour of the petitioner.

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

Supplementary affidavit filed on behalf of the petitioner is also taken on record.

Copy of the same is handed over to the learned counsel for the State.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an approved Assistant Professor at Gandhi Centenary B.T. College, North 24 Parganas. The husband of the petitioner being an employee of a private company is receiving House Rent Allowance (HRA) as a separate engagement. The District Inspector of Schools (S.E.), North 24-Parganas, relying on the Memorandum of the Finance Department (Audit Branch), Government of West Bengal bearing No.5839-F(P) dated July, 09, 2012 and the Corrigendum Memorandum thereto bearing No.8012-F(p2)/FA/O/2m/206/17(N.B.) dated December 27, 2018, stopped the payment of HRA to the petitioner. A Coordinate Bench of this Court by the judgment dated March 16, 2021 passed in WPA 1389 of 2018 (Mousumi Biswas & Ors. State of West Bengal & Ors.) has quashed the aforementioned memorandum of 2018. An appeal being MAT 1023 of 2021 (The State of West Bengal & Ors. vs. Mita Majumder & Ors.) against the said judgment and order of the said Coordinate Bench is pending. But, no order of stay has been passed in the said appeal. Relying on this judgment, relief has been granted to a

similarly circumstanced Assistant Teacher by an order dated 21.05.2024 passed in WPA 14006 of 2024. In view of the same, the petitioner would be entitled to full HRA along with interest on the arrears.

Learned counsel appearing on behalf of the State respondents denies the allegations made in the writ petition and relies on the above referred memoranda. He further submits that the communication annexed in the supplementary affidavit pertains to CAS benefits and not HRA.

It appears that the above-referred memorandum of 2018 was quashed by a Coordinate Bench of this Court. However, an appeal is pending over the issue. But, no stay has been granted in the said appeal.

Relying on the said decision, another Coordinate Bench of this Court has granted appropriate relief towards similarly circumstanced Assistant Teacher.

In the present facts, I find no reason to take a different view.

It is unfortunate that the respondent authorities are still relying on the memorandum of 2018, which has been set aside by this Court.

Therefore, the concerned respondent authorities is directed to release the HRA, both current and arrear to the petitioner, the arrear thereof be paid to the petitioner with interest @ 6% per annum from the date on which it became payable till the date of payment. Such payment shall be made within a period of six weeks from the date of communication of this order.

It is, however, made clear that the payment of HRA in terms of this order is subject to the result of the above referred pending appeal.

Accordingly, the writ petition is disposed of, without any order as to costs.

As affidavits were not called for, allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)