

27.06.2024.
Court No. 13
Item No. 22
sp

W.P.A. No. 20548 of 2019
Sri Tarak Nath Chakraborty
Versus
The State of West Bengal & Ors.

Mr. Kanailal Samanta,
Mr. Jamini Kanta Ghosh,
Mr. Suprabhat Bhattacharya,
Mr. Milan Kumar Maity

...for the petitioner.

Mr. Ranjan Saha

...for the DPSC, Paschim Medinipur.

1. The matter has been listed as a 'Motion'. After exchange of affidavits, by consent of the parties, the writ petition has been taken up for hearing.
2. The petitioner is aggrieved by order dated 23rd July, 2019 passed by the D.I. of Schools (P.E.), Paschim Medinipur. By the impugned order, the petitioner's claim for salary from 11th February, 2014 till 29th August, 2014 has been denied. The said order was passed pursuant to directions of a Single Bench of this Court dated 22nd April, 2019 in WP 14746 (W) of 2018.
3. The brief facts relevant to the case are that the petitioner participated in a selection process conducted by the WBBPE and was recommended for appointment to the DPSC, Paschim Medinipur. The Chairman, DPSC, Paschim Medinipur by order dated 5th February, 2014 issued a letter of appointment to the petitioner to join Chandabila Primary Junior Basic

School, Lalgarh Circle, Paschim Medinipur as an Assistant Teacher. The petitioner so joined on 11th February, 2014. He was not paid salary until 31st August, 2014. Repeated representations yield no result and hence, he filed the writ petition which resulted in the impugned order.

4. It appears from the affidavit-in-opposition filed by the respondent nos. 4 and 5 that the Commissioner of School Education had approved the appointment of the petitioner on 29th August, 2014. There is a communication dated 29th August, 2014 passed by the CSE addressed to the Secretary, WBBPE communicating such approval.

5. It is clear and evident from the said communication of the CSE that there were some additions and deletion in the recommendations for the District of Paschim Medinipur to the post of Assistant Teacher under the Bengali, Hindi and Santhali category. It also appears that the names of about 30 candidates were withheld for various reasons. Apart from the above, there is no reason indicated by the CSE for delaying the approval of appointment of the petitioner.

6. The petitioner joined the school in question in terms of the letter of appointment issued by the DPSC, Paschim Medinipur. The DPSC, Paschim Medinipur also acted in terms of the recommendation received from the WBBPE. Any delay or omission on the part of

the CSE to approve the appointment of the petitioner cannot in the first place, affect the petitioner's appointment or joining of service in terms of the letter of appointment. In any event, the CSE has not found any irregularity whatsoever in the appointment and joining of the petitioner in terms of the letter dated 5th February, 2014.

7. The petitioner has lawfully discharged duties from 11th February, 2014 and is in law entitled to all salary and benefits and emoluments from the first day of discharge of duties.

8. At the risk of repetition is stated that delay in approval of the petitioner's service cannot be attributed to the petitioner. The petitioner cannot be faulted or deprived any right on account thereof.

9. In those circumstances, the impugned order dated 23rd July, 2019 passed by the D.I. of Schools (P.E.), Paschim Medinipur shall stand set aside.

10. The petitioner shall be paid the salary for the period from 11th February, 2014 until 31st August, 2014, mandatorily and positively within a period of 1 month from the date of receipt of a copy of this order by the DPSC, Paschim Medinipur and the D.I. of Schools (P.E.), Paschim Medinipur together with interest @ 8% per annum from 1st March, 2014 till the date of actual payment.

11. In default of payment as directed hereinabove, the rate of interest shall increase @ 10% per annum.

12. With the aforesaid observations, the instant writ petition is allowed and disposed of.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)