

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 24212 of 2024

Abhik Kundu & Ors.
Versus
The State of West Bengal & Ors.

For the petitioners	:	Mr. Anish Roy, Mr. Arkaprabho Roy.
For the State	:	Mr. Swapan Kumar Datta Id.AGP. Mr. Dipankar Das Gupta.
For the Respondent nos.7 & 8	:	Mr. Subhrangsu Panda
Heard on	:	06.11.2024
Judgment on	:	06.11.2024

JAY SENGUPTA, J:

1. This is an application, inter alia, praying for release of House Rent Allowance, current and arrear, in favour of the petitioners.
2. Affidavit of service filed on behalf of the petitioners is taken on record.
3. Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are approved Assistant Professor and Lecturers of various subjects at the Ashutosh College, Kolkata. The spouses of the petitioners, being employees of private companies are receiving House Rent Allowance (HRA) as a separate engagement. The

Joint Director of Public Instruction, 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 petitioners. 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 individual by an order dated 21.05.2024 passed in *WPA 14006 of 2024*. In view of the same, the petitioners would be entitled to full HRA along with interest on the arrears.

4. Learned counsel appearing on behalf of the State denies the allegations made in the writ petition and submits that if, at all, any relief is granted to the petitioner, the same has to be subject to the decision of the appeal being MAT 1023 of 2021.

5. 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.

6. Relying on the said decision, another Coordinate Bench of this Court has granted appropriate relief in favour of similarly circumstanced Assistant Professor.

7. In the present facts which are quite similar, I find no reason to take a different view.

8. Therefore, the concerned respondent authorities are directed to release HRA in favour of the petitioners, the arrear to be paid to the petitioners 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.

9. 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.

10. Accordingly, the writ petition is disposed of.

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

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

(Jay Sengupta, J.)

(Jay Sengupta, J)