

15
27.09.2024
Ct. No. 18
rkd

W.P.A. 24476 of 2024

Kamalakanta Bera & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharyya,
Mr. Bidhan Binda

...for the petitioners.

Md. Sarwar Jahan,
Ms. Mousumi Mitra

...for the respondent no.4.

Petitioners have come up with the present writ petition claiming to be treated as Samprasarak/Samprasarika in Madhyamik Shiksha Kendra (for short, “MSK”) instead of para teacher.

It has been submitted by the learned advocate representing the petitioners that in terms of notification dated 18th December, 2019 passed by the School Education Department, Government of West Bengal they exercised option to function as para teachers not as Samprasaraks/Samprasarikas. However, petitioners have subsequently found that for a considerable period of time scheme was not introduced and ultimately vide memorandum dated 29th August, 2024 issued by the Additional Secretary to the Government of West Bengal, Department of School Education benefit of EPF Scheme is only extended from 1st April, 2024 in the event

Samprasaraks/Samprasarikas of Madhyamik Shiksha Kendras opted for engagement upto the age of 60 years. It is submitted by the learned advocate representing the petitioners that such scheme which has been introduced vide memorandum dated 29th August, 2024 is found to be not beneficial to them since same has been introduced with effect from 1st April, 2024 and petitioners want to be treated as Samprasaraks/Samprasarikas of MSKs without giving effect to the options which they have exercised. In support of such contention reliance is placed on an order dated 16th March, 2023 passed by a coordinate Bench on a writ petition being **WPA 4525 of 2023 (Bidhan Chandra Naskar & Ors. Vs. The State of West Bengal & Ors.)**

Paschim Banga Rajya Sishu Shiksha Mission (for short, 'PBRSSM') is represented by learned advocates.

It has been submitted specifically on behalf of PBRSSM that the situation which was prevailing prior to issuance of memorandum dated 29th August, 2024 is altered after 29th August, 2024. Therefore, at present petitioners have no other choice but to come under the said memorandum dated 29th August, 2024 based on options they have exercised. In the same breath it has also been submitted on behalf of PBRSSM that since the benefit of EPF is extended to the Samprasaraks/Samprasarikas with effect from 1st April, 2024 it may not be beneficial to those Samprasaraks/Samprasarikas who

have less than two years left if they are to retire at the age of 60 years at par with para teachers.

Having considered the respective submissions made on behalf of the parties this Court finds that there is memorandum dated 29th August, 2024 issued by the Additional Secretary to the Government of West Bengal deciding to extend benefit of EPF to Samprasarakas/Samprasarikas of MSKs with effect from 1st April, 2024 which appears to be not beneficial to the petitioners as a result whereof they are praying before this Court for a direction to be treated as Samprasarakas/Samprasarikas not as para teachers by not giving effect to the options which they have exercised. Similar benefit has been extended by a coordinate Bench by passing order dated 16th March, 2023 on a writ petition being **WPA 4525 of 2023** in the case of **Bidhan Chandra Naskar** (supra). Placing reliance on the ratio of **Bidhan Chandra Naskar** (supra) this Court has passed several orders directing the authorities not to treat Samprasarakas/Samprasarikas as para teachers on giving credence to the options which they have exercised. Only difference today is issuance of memorandum dated 29th August, 2024 whereby State authority has decided to extend the benefit of EPF to the petitioners with effect from 1st April, 2024 which is found not to be beneficial so far these petitioners are concerned since with the benefit of EPF at the fag end of their service tenure they have to

retired at the age of 60 years instead of 65 years. If the petitioners are treated as Samprasarakas/Samprasarikas they can function upto the age of 65 years which according to them is more beneficial than to function as para teachers till the age of 60 years accepting the condition as stipulated in the memorandum dated 29th August, 2024.

Since in the writ petitions which have been decided prior to issuance of memorandum dated 29th August, 2024 permitting those petitioners to be treated as Samprasarakas/Samprasarikas without giving credence to the options which they exercised this Court finds no impediment in extending same benefit to the present petitioners. Mere issuance of memorandum dated 29th August, 2024 should not act as fetter so far present petitioners are concerned to be treated as Samprasarakas/Samprasarikas without giving credence to the options which they have exercised.

In view of aforesaid discussions the writ petition stands allowed directing the concerned State authorities including PBRSSM authority to treat the petitioners as Samprasarakas/Samprasarikas and the options which they have exercised shall be treated as cancelled.

It is also clarified that in future they cannot claim the benefits as para teachers.

Learned advocate representing the petitioners submits that the deficit Court fees has been put in and in support of the same document is produced before this court and the same is taken on record.

Accordingly, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)