

02.12.2024
Court No. 18
Item No. 15
(Suvendu)

WPA 25602 of 2024

Dulal Chandra Barman
-Versus-

The State of West Bengal & Ors.

Mr. Sabyasachi Mondal
Mr. Subir Sabud
Ms. Puja Naskar
Ms. Payel Khanra

.....for the petitioner

Mr. Maniruzzaman
Mr. Sankha Prasad Roy

.....for the State

Mr. Koustava Ratan Chatterjee

....for the respondent no. 8

Grievance of the petitioner is in spite of the fact that petitioner retired on superannuation on 31st January, 2023 from the post of Headmaster, till date pension case of the petitioner has not been settled for release of retiral dues including pension.

Today, matter is heard at length in presence of learned advocates representing the petitioner, State respondents and authority of Barhat Sambhunath Banipith High School, Purba Medinipur.

Learned advocate representing the petitioner submits that prior to joining the post of Headmaster in Barhat Sambhunath Banipith High School, Purba Medinipur petitioner worked in two different schools, namely Krishnapur Adarsha Vidyamandir and Mahishadal Raj High School. It is further submitted on behalf of the petitioner that another writ petition being WPA 3693 of 2020 (Sri Dulal Chandra Barman Vs. The State of West Bengal & Ors.) is pending wherein challenge has been thrown to one memo dated 7th January, 2020 containing decision of the Commissioner of School Education, West Bengal wherein it was decided that petitioner has to refund excess amount of salary drawn from the date of drawal of revised scale under ROPA 1998. It was also decided therein that petitioner was not entitled to pay protection and fixation of pay in Mahishadal Raj High School reckoning his past service in Krishnapur Adarsha Vidyamandir thereby fixing initial basic pay of petitioner in post graduate scale of pay with effect from 1st September, 1995.

In the writ petition being WPA 3693 of 2020 parties were directed to exchange affidavits by a Coordinate Bench vide order dated 6th July,

2022. Copy of the order dated 6th July, 2022 is placed before this Court and same is taken on record.

It is also submitted that apart from WPA 3693 of 2020, other three writ petitions being WP 15153(W) of 2011, WP 23389 (W) of 2012 and WP 13547 (W) of 2013 were disposed of by Coordinate Benches giving necessary directions. Orders passed on aforesaid three writ petitions are annexed to the present writ petition.

In view of aforesaid situation, prayer is made on behalf of the petitioner to direct the respondent authorities to release admissible retiral dues to the petitioner after adjusting alleged overdrawn amount due to pendency of the writ petition being WPA 3693 of 2020.

It has been submitted on behalf of the District Inspector of Schools (SE), Purba Medinipur, being respondent no.6 that in the event pension file is forwarded by the authority of Barhat Sambhunath Banipith High School, Purba Medinipur; necessary steps can be taken for release of admissible benefits.

Having considered the submissions made on behalf of the parties and taking note of the materials available on record, it is found that

another writ petition being WPA 3693 of 2020 is pending wherein challenge has been thrown to the decision of the Commissioner of School Education, West Bengal dated 7th January, 2020. In the said writ petition on 6th July, 2022 a Coordinate Bench directed the parties to exchange affidavits.

Therefore, at this stage legality and validity of the order of the Commissioner of School Education dated 7th January, 2020 cannot be delved into due to pendency of the writ petition being WPA 3693 of 2020.

However, this Court does not find any impediment in directing the respondent authorities to release admissible service benefits to the petitioner considering his superannuation on 31st January, 2023 on adjusting excess drawn amount from the gratuity of the petitioner.

Teacher-in-Charge of Barhat Sambhunath Banipith High School, Purba Medinipur, being respondent no. 8 is directed to submit all papers including Service Book of the petitioner for settlement of pension before the District Inspector of Schools (SE), Purba Medinipur being the respondent no. 6 by fortnight from the

date of communication of this order. On receipt of papers from the concerned school authority, respondent no. 6 shall settle claim of the petitioner and release admissible retiral dues including pension to the petitioner by four weeks thereafter without insisting upon the petitioner to refund excess drawn amount. If necessary State respondents shall be at leave to adjust excess drawn amount from gratuity while releasing retiral dues including pension.

This order is passed without prejudice to the rights and contention of the parties in the writ petition being WPA 3693 of 2020.

With the above observations and directions, present writ petition being WPA 25602 of 2024 stands disposed of.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)

