

S/L 3
11.12.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 25960 of 2024

Kakali Ghosh Rana & Ors.

Vs.

The State of West Bengal & Ors.

Ms. Shalini Ghosh

Ms. Suryatapa Das

...for the Petitioners.

Mr. Biswabrata Basu Mallick, Ld. AGP

Mr. Biman Halder

...for the State.

Md. Sarwar Jahan

Ms. Tapati Sarkar

...for the Respondent No.4.

Copies of the acknowledgement of challan evidencing payment of deficit court fees is filed on behalf of the petitioners, let it be kept with the record.

The petitioners are the Sahayikas in different Sishu Siksha Kendras (SSKs, in short), all of them opted to avail the benefit of the Notification of the Government of West Bengal, School Education Department, Elementary Education Branch, bearing Memo No: 979-ES/EE/10M-164/19 dated December 18, 2019 for being treated as Para Teachers of Paschim Banga Rajya Shishu Shiksha Mission. The relevant paragraph of the said Notification is quoted below:

“2. The Sahayaks/Sahayikas and Mukhya Sahayaks/Mukhya Sahayikas of SSKs, Samprasaraks/Samprasarikas and Mukhya Samprasaraks/Mukhya Samprasarikas of MSKs who are within the age of 60 years on the date 01.04.2020 shall be required to give their option in the format annexed herein, by 5 pm of 01/02/2020 to Mission Director of PBRSSM through the District Nodal Officer, SSK/MSK of the concerned district, for treating them at par with the Para Teachers of Paschim Banga Samagra Shiksha Mission under School

Education Department, Govt. of West Bengal and engage them with similar terms and conditions as that of Para Teachers, to get similar benefits extended to the Para Teachers.”

The School Education Department failed to provide the benefit to the petitioners accrued to them on exercise of such option, the petitioners under such circumstances are praying that they may be permitted to revert to their original status of Sahayikas and to continue their service as such, upto the age of 65 years.

Ms. Ghosh, learned advocate for the petitioners, submits that though the State subsequently by a notification bearing No.306-SED-18028(99)/2/2021-PB SEC-Dept. of SE dated August 29, 2024 by a memorandum has approved payment of employer’s share towards the EPF in respect of Sahayaks/Sahayikas of SSKs and Samprasaraks / Samprasarikas including Mukhya Samprasaraks / Samprasarikas of MSKs, who opted for engagement up to the age of 60 years w.e.f. April 1, 2024 but the petitioners have not applied for the benefit provided under the said memorandum. She, in aid of the relief as prayed for by the petitioners, places reliance on a decision of a Co-ordinate Bench of this Court in WPA 4524 of 2023 whereby identical prayer of similarly placed Sahayikas was allowed.

Learned counsel for the State and the learned counsel for the respondent no. 4/the Mission Director, Paschim Banga Mission, Rajya Shishu Government Shiksha of West Bengal, does not raise any objection to such prayer of the petitioners.

The concerned respondents, therefore, are directed to allow the petitioners to maintain their status as Sahayikas in their respective SSKs ignoring the options exercised by them under the aforementioned Notification and to allow them to continue in their such engagement upto the age of 65 years.

It is made clear that the petitioners will not be entitled to any of the benefits of Para Teachers.

WPA 25960 of 2024 is disposed of with the above terms, there shall however be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)