

03-04-2024
ct no. 13
Sl. 141
sp

WPA 26231 of 2023
Md. Aminul Islam & Ors.
-Versus-

The State of West Bengal & Ors.

Ms. Sima Ghosh,
Mr. Sanjoy Patra

..for the petitioners

Mr. Durga Bhusan Mukhopadhyay

...for the State

1. The petitioners are aggrieved by recovery of a sum of Rs. 1,28,173/- on account of the service of their father as Assistant Teacher in Kopa Primary School under Paikar Circle, Birbhum.
2. Admittedly, the petitioner's father should have retired at the age of 60 on February 29, 1992. He worked till May 31, 1996 for 5 further years. The recovery that has been made by the respondents is 5 years of salary from March 1, 1992 to May 31, 1996 from the gratuity amount paid to the petitioner's father.
3. For the period that the petitioner's father has worked beyond 60 years, he is entitled to salary and allowance which could not have been recovered from the petitioner's father's terminal benefit.

However, the length of service for the purpose of calculation of terminal benefits must only be deemed until the age of 60, i.e., upto February 29, 1992.

4. In those circumstances, the respondents shall refund the amount of Rs. 1,28,173/- recovered from the petitioner's father's gratuity of alleged unauthorized salary, within a period of one month from date together with interest @ 6% per annum.
5. The objection regarding delay in approaching Court has already been dealt with in several matters before this Court, inter alia, decided on August 23, 2017 in the case of ***Kabirul Islam Vs. State of West Bengal & Ors.*** in ***W.P. 15426 (W) of 2017***.
6. With the aforesaid observations, the instant writ petition shall stand disposed of.
7. There shall be no order as to costs.
8. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)

