

22.04.2024.  
Court No. 13  
Item No. 16  
ap

**W.P.A. No. 26486 of 2023**  
**Pijush Bandopadhyay**  
**Versus**  
**The State of West Bengal & Ors.**

Mr. Pijush Bandopadhyay.  
...Petitioner appearing in person.

Mr. Biswabrata Basu Mallick, Ld. AGP,  
Mr. Biman Halder,  
Ms. S. Pal  
....For the DPSC, Hooghly.

Mr. Bhaskar Prasad Vaisya,  
Mr. Ranjan Saha,  
Ms. Mitali Mukherjee,  
Mr. Subhayu Das.  
...For the State.

1. The writ petitioner appears to be disturbed. It is this disturbance that has compelled him to resign from service on 14<sup>th</sup> July, 2015 and 22<sup>nd</sup> April, 2017. He could not get along with his co-teachers.
2. Under orders of this Court passed in W.P. No. 11614 (W) of 2018, the Chairman, District Primary School Council, Hooghly, in a very considerate and fair manner, held that the petitioner's resignation dated 14<sup>th</sup> July, 2015, is accepted with effect from 1<sup>st</sup> May, 2017 and **the petitioner was allowed to retire from service.**
3. The writ petitioner filed another writ petition thereafter being W.P. No. 4367 (W) of 2019 which was disposed of by an order dated 10<sup>th</sup> June, 2019 by a Co-ordinate Bench of this Court. The relevant paragraph

of the said order dated 10<sup>th</sup> June, 2019 passed in W.P. No. 4367 (W) of 2019 is quoted below:

*“It is, however, made clear that as per the order of the Chairman, Hooghly District Primary School Council, the petitioner will be treated to have retired from his service on and from May 1, 2017 and the retiral benefits will be calculated on the basis thereof.*

*All the respondents should cooperate in the matter and finalise the issue so that the retiral dues of the petitioner are given to him after adjustment of any salary, which may have been paid to the petitioner after April 31, 2017.”*

4. In view of the aforesaid observations of the Chairman, District Primary School Council, Hooghly (supra) and the Co-ordinate Bench (supra) and considering the fact that the petitioner has rendered service since 2<sup>nd</sup> August, 2000 until 1<sup>st</sup> May, 2017, the petitioner’s service shall be deemed to have come to an end on 1<sup>st</sup> May, 2017 either in the form of premature retirement or compulsory retirement without blemish.

5. The respondents appear to have, in compliance of the order of a Co-ordinate Bench of this Court, processed his papers for pension. The respondents accepted and acted upon the petitioner’s claim for pension.

6. The One Time Password could not be generated as the petitioner was treated as having resigned. There is some substance in the contention of the respondents

that a person who resigned from service is not entitled to pension.

7. The orders dated 3<sup>rd</sup> October, 2018 passed in W.P. 11614 (W) of 2018 and that of a Co-ordinate Bench of this Court in the order dated 31<sup>st</sup> March, 2023 passed in W.P.A. No. 4661 of 2023 are conflict with the order dated 10<sup>th</sup> June 2019 (supra). The said order is given precedence over the orders dated 3<sup>rd</sup> October 2018 and 31<sup>st</sup> March 2023 (supra). The order dated 10<sup>th</sup> June 2019 shall be enforced and implemented by the respondents.

8. The impugned order dated 16<sup>th</sup> October 2023 shall remain in abeyance.

9. Counsel for the respondents claims that the petitioner was paid his gratuity, which the petitioner vehemently denies. Even the Provident Fund of the petitioner has not been settled completely according to him. This has also been denied by the respondents. The petitioner has rendered 17 long years of service to the State as an Assistant Teacher.

10. Be that as it may, the Sub-Inspector of Schools, Chanditala Circle, Hooghly shall calculate the last drawn pay of the petitioner on 1<sup>st</sup> May, 2017 as an retired employee. The same shall be forwarded to the Director of Pension, Provident Fund and Group Insurance, West Bengal for issuance of Pension Payment Order.

11. The aforesaid order is passed in the very special facts and circumstances of the case and shall not be cited as a precedent.

12. Let the Sub-Inspector of Schools, Chanditala Circle, Hooghly and Director of Pension, Provident Fund and Group Insurance, West Bengal, comply with the aforesaid order within a period of two months from date.

13. With the aforesaid directions, the instant writ petition shall stand disposed of.

14. There will be no order as to costs.

15. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

***(Rajasekhar Mantha, J.)***