

Ct. 11.06
No. 2024
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W.P.A. 26706 of 2023

**Mustari Begum
-Versus-
The State of West Bengal & Ors.**

Md. Habibur Rahman.	...For the Petitioner
Md. Rezaul Hossain	...For the State Respondents
Md. Sarwar Jahan Ms. Tapati Sarkar	...For the Respondent No.2.

Affidavit-of-service filed on behalf of the petitioner be kept on record.

The petitioner was engaged as Sahayak/Sahayika in different Sishu Siksha Kendra (SSK) for a period of one year and in that regard agreement was executed between them. Thereafter, by the subsequent agreements between them the engagement was renewed from time to time.

By a notification dated May 2, 2008 issued by the Department of Panchayats and Rural Development, Government of West Bengal, the upper age limit to continue as Sahayaks / Sahayikas of SSKs was enhanced to 65 years, instead of 60 years.

With regard to a notification dated December 18, 2019 issued by the School Education Department, Elementary Education Branch, Government of West Bengal, the administrative control of Sishu Siksha Kendras (SSKs) and Madhyamik Siksha Kendras (MSKs) was entrusted to the School Education Department, Government of West Bengal. By the said notification, it was stated therein that Samprasaraks / Samprasarikas who were within the age of 60 years on 1st April 2020, would be required to give their option in the prescribed format by 1st February 2022 for treating them at par with the para-teachers of Paschim Banga Samagra Shiksha Mission under the School Education

Department. As per the notification, they would remain engaged with similar terms and conditions as that of para-teachers to get the similar benefits extendable to them.

The petitioner submits that though she exercised her option, but no benefit was extended to her, which is admissible to the para-teachers. Under such circumstances, the petitioner seeks directions upon the respondent authorities so that they may be reverted back to their previous status of Sahayaks / Sahayikas and be allowed to continue her service till the age of 65 years.

Learned counsel for the petitioner submits that the petitioner was allured by the aforesaid notification dated December 18, 2019 that she would get the benefit of Employees Provident Fund (EPF) as was admissible to the para-teachers. But, since she exercised option, no benefit of EPF was granted to her. Learned counsel also submits that if the option exercised by her subsists, his client would have to retire at the age of 60 years. He emphasizes that the petitioner be reverted back to the previous status and be allowed to continue her services as Sahayaks / Sahayikas till the age of 65 years.

On the other hand, learned counsel representing the Mission Director, Paschim Banga Rajya Sishu Siksha Mission, the fourth respondent herein, submits by referring to a recent memo dated 1st March 2023 that the Mission Director will have no objection if the petitioner is allowed to continue her services up to the age of 65 years. He further submits that till date the authority has not extended any additional benefit to Samprasarakas / Samprasarikas at par with the para-teachers except granting the terminal benefit of Rs.3,00,000/-. He also submits that in the aforesaid memo

dated 1st March 2023, it has been stated therein that engagement of Sahayaks / Sahayikas has been stopped since 2012. He informs this court that as regards engagement of Samprasaraks / Samprasarikas, her engagement has been stopped since 1st January 2010. Learned counsel, based on this memo, submits that the authority concerned has no objection if the Sahayaks / Sahayikas are reverted back to her previous status, provided her will not claim any benefit that are given or may be given in future to them treating at par with the para-teachers including Rs.3,00,000/- as terminal benefit. However, learned counsel submits that this court may pass necessary order in respect of the petitioner in view of the memo dated 1st March, 2023. Learned counsel informs the court that the memo dated 1st March, 2023 which was addressed to the Additional Secretary, Government of West Bengal has not yet been responded to.

Having heard learned counsels appearing for the respective parties and on consideration of the documents on record, especially the relevant Government notifications, I feel that the writ petition may be disposed of by passing the following directions.

The concerned respondents are directed to revert back the petitioner to her previous status of Sahayak/Sahayika from the status at par with para-teachers and allow her to maintain such status treating the option exercised by her as cancelled/withdrawn immediately.

The petitioner is permitted to continue her services as Sahayak/Sahayika up to the age of 65 years.

It is made clear that the petitioner will not be allowed to claim the benefits as admissible to the para-teachers.

With the aforesaid directions the writ petition is disposed of.

Since, no affidavit-in-opposition has been invited the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

All parties may act on the server copy of this order duly downloaded from the official *website* of this Court.

(*Rajasekhar Mantha, J.*)