

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
AN APPEAL FROM JUDGMENT AND ORDER PASSED IN ITS
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

APOT/79/2023
with
WPO/140/2018
IA No.GA/1/2023
GA/2/2023

MAHUA MUKHOPADHYAY.
-Versus-
THE STATE OF WEST BENGAL AND ORS.

APOT/80/2023
with
WPO/143/2018
IA No.GA/1/2023
GA/2/2023

DINESH KUMAR SINGH.
-Versus-
THE STATE OF WEST BENGAL AND ORS.

APOT/81/2023
with
WPO/142/2018
IA No.GA/1/2023
GA/2/2023

RAVINDRA KUMAR TIWARI.
-Versus-
THE STATE OF WEST BENGAL AND ORS.

Present :

The Hon'ble Justice Debangsu Basak

-And-

The Hon'ble Justice Md. Shabbar Rashidi

For the Appellant : *Mr. Malay Bhattacharyya, Adv.*

For the State : *Mr. Sirsanya Bandopadhyay, Adv.*
Ms. Tapati Samanta, Adv.

For the School : *Mr. Shakti Pada Jana, Adv.*

HEARD ON : 08.08.2024
DELIVERED ON : 08.08.2024

DEBANGSU BASAK, J.:-

1. Three appeals are heard analogously as the same issue as to whether the writ petitioners are entitled to Dearness Allowance (DA) as Assistant Teachers working in a DA getting school or not is involved in all the three appeals.
2. In the three appeals there are three applications for condonation of delay. The appellants are school teachers. For the ends of justice, the delay in making and filing the appeals are condoned accepting the causes shown in the applications to be sufficient. Accordingly, the applications for condonation are disposed of and the appeals are taken up for final hearing.
3. The appeals are directed against the orders passed by the learned Single Judge dismissing the writ petitions.
4. The appeals are at the behest of the writ petitioners.
5. By the impugned order learned Single Judge dismissed the writ petition on the ground that the reasoned order impugned in the writ petition contained sufficient reasons for non-approval of the prayer of the writ petitioners for DA. Learned Single Judge also did not find any procedural irregularity in the passing of the reasoned order impugned in the writ petition.
6. Learned advocate appearing for the appellants submits that the appellants are Assistant Teachers of a DA getting School. Though their services were

sought to be terminated, their termination of service received consideration of the High Court and by an order dated September 22, 2016 the order of termination issued by the school was set aside. He refers to order dated September 22, 2016 passed in WP/642/2015 in this regard.

7. Learned advocate appearing for the appellants submits that the right of the appellant to receive DA emanates from the Circular dated September 20, 2001. Referring to such circular, he submits that, all the conditions that were laid down in such circular stand satisfied by each of the appellants. Three appellants were appointed subsequent to the circular dated September 20, 2001. All the three appellants possess requisite educational qualification to be appointed to the post of Assistant Teacher in the subject that they were appointed. He draws attention of the Court to the appointment letters and to the subsequent confirmation letter issued in this regard. He submits that since each of the appellants satisfied the conditions laid down therein, the writ petitioners are entitled to DA.
8. State and the school authorities are represented.
9. The appellants before us as writ petitioners approached the Court from time to time on various issues. One of the issues was their entitlement to receive DA. Such issue received the consideration of the authorities. The District Inspector of Schools (Secondary Education), Kolkata, by a writing dated August 20, 2009 declined to accept the claim of the appellants to receive DA. Such order was passed pursuant to a direction issued by the High Court on November 19, 2008 in WP No.819 of 2008.

10. On this issue materials made available on record does not suggest that any of the appellants took any steps with regard to the order dated August 20, 2009 of the District Inspector of School.
11. The next relevant available material on record with regard to the issue of receipt of DA by the appellants is an order of the authorities dated November 13, 2017. Four writ petitions were filed in 2016 and 2017. Out of which three of the writ petitions were filed by the individual appellants before us in 2016 and 2017 with regard to their claim for receipt of DA. Such writ petitions were disposed of by an order dated December 15, 2016 requiring the authorities to pass a reasoned order on the representation made by the appellants.
12. The authorities passed the order dated November 13, 2017 in terms of the order of the High Court dated December 15, 2016 passed in the writ petitions of the appellants. The writ petition in which such order dated December 15, 2016 was passed, is not placed on record before us during the course of hearing.
13. Be that as it may, the authorities declined to grant the relief of DA to the appellants for the reasons enumerated in the impugned order dated November 13, 2017.
14. The first ground of rejection is non-compliance with the Circular dated September 20, 2001. The first ground states, paper submitted before the authorities did not reflect maintenance of roster of appointment following

the guidelines. This ground for the reasons given with regard thereto in the order dated November 13, 2017 is not established to be perverse.

15. The second ground is with regard to the wide publicity circular dated July 25, 2008 for recruitment which was not done so far as the appointment of the appellants are concerned. Two of the appellants were appointed prior to such circular dated July 25, 2008. One of the appellants namely, Mr. Dinesh Kumar Singh was appointed in 2009 which is subsequent to the circular of 2008. Appointment of Mr. Dinesh Kumar Singh, therefore, is a suspect. At least, he does not conform for the purpose of DA on such ground also.
16. The third ground for rejection is that Ms. Mahua Mukhopadhyay and Mr. Devanand Pandey were appointed in a language group at a point of time when 14 approved teachers were already existing in the language group and where the student strength was only 493. The finding is that there was already excess approved teacher lying in the language group.
17. The fourth ground of rejection is that Mr. Ravindra Kumar Tiwari and Mr. Dinesh Kumar Singh were appointed in Social Science group by the school authorities. Again, 11 approved teachers were already existing in the Social Science group where the total strength of the students was 493.
18. These grounds of rejection were not established to be perverse.
19. As noted above, learned single Judge found that the reasoned order contained sufficient reasons for denial of the claim.
20. A writ Court is not concerned with the decision per se but with the decision making process. It is not the case of the appellants that there was any

breach of principles of natural justice while arriving at the decision of the authorities dated November 13, 2017. As noted above, the decision dated November 13, 2017 was not established to be perverse.

21. In such circumstances, we find no merit in the three appeals. APOT/79/2023, APOT/80/2023 and APOT/81/2023 along with all connected applications are dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

I agree.

(MD. SHABBAR RASHIDI, J.)

A/s.