

0207  
2025

WEDNESDAY

Court : CB-07  
Item : DL-06  
Bench : SINGLE  
Matter : WPA  
Status : DO  
ID : 266057  
AR : NANDY

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

WPA2115 OF 2024

MANATOSH PAUL  
VS.

THE STATE OF WEST BENGAL & ORS.

**MR. SAKTI PADA JANA, ADVOCATE**

.....for the Petitioner

**MR. BHASKAR PRASAD VAISYA, ADVOCATE**

**MR. NILAY BARAN MANDAL, ADVOCATE**

.....for the State

1. The instant writ petition is yet another instance of the inconsistent stand taken by the State regarding the grant of additional benefits to the Headmasters of upgraded schools.
2. Initially, the Education Department decided to extend such benefits to the Headmasters of all upgraded schools, but subsequently revised its position and restricted the benefit to Headmasters of schools upgraded after a particular cut-off date. This change in stance led to disputes concerning the grant of retirement benefits to those Headmasters. The present *lis* is merely an offshoot of that dispute, which has entered the extraordinary jurisdiction of this Court through this writ petition.
3. Succinctly stated, the facts leading to the initiation of this writ petition are that the petitioner began his career as an Assistant Teacher at Dara Adarsha Bidyamandir, South 24-Parganas, on 01.04.1991. He was subsequently promoted to the post of Headmaster of the said school, and his pay scale was fixed at Rs. 8,825/- with effect from 22.04.2004. The school was upgraded to a Higher Secondary School with effect from 01.07.2010, and an additional 3% increment was granted to the petitioner in terms of the G.O. dated 10.02.2010,

issued under the Revision of Pay and Allowances (ROPA) Rules, 2009.

4. Based on the recommendation made by the School Service Commission dated 03.12.2015, the petitioner joined Lake View High School, Kolkata, as Headmaster. The record reveals that the petitioner's basic pay was revised under ROPA 2019 to Rs. 82,400/- as on 01.01.2016, which increased to Rs. 92,700/- as on 01.01.2020. After rendering nearly 32 years of continuous and unblemished service, the petitioner retired from service on 31.12.2023 upon attaining the age of superannuation. His last drawn basic pay was Rs. 1,04,400/-. The petitioner's pension papers were forwarded to the competent authority prior to his retirement.
5. However, no retirement benefits, including pension, have been released in his favour on the pretext that he erroneously enjoyed the benefit of an additional increment of 3%. The concerned authority has sought to justify the withholding of the petitioner's pension and other retirement benefits on the ground that the additional increment and an additional grade pay of Rs. 200/- were admissible only to Headmasters of Higher Secondary Schools upgraded after the cut-off date of 27.02.2009.
6. Needless to emphasize that clause 11 of ROPA 2009 and the notification dated 08.10.2009 provides that, in view of the additional responsibilities undertaken by Headmasters and Headmistresses in managing the administration of schools, the State decided to grant them one additional increment @ 3% of their basic pay. As submitted on behalf of the petitioner, the provisions of ROPA 2009 were given effect from 27.02.2009.
7. Subsequently, the State clarified its stance through the issuance of a memorandum dated 10.02.2010,

which stated that if a school was upgraded to the Higher Secondary level between 01.01.2006 and 27.02.2009, the Headmasters would be entitled to two additional increments from the date of such upgradation, in accordance with the provisions of the unrevised scale of pay.

8. Subsequently, another memorandum dated 04.12.2014 was issued, which specified that Headmasters and Headmistresses of high schools upgraded to the 10+2 Higher Secondary category after 27.02.2009 would be entitled to receive a 3% additional grade pay in accordance with the order dated 27.02.2009.
9. Further, another Notification No. 292-SL/55-294/12 dated 22.03.2017 was issued, conveying the State's position that the benefit of a 3% additional increment on basic pay would not be granted to Headmasters of schools upgraded after 27.02.2009. By a memorandum dated 22.03.2017, the earlier notification dated 04.12.2014 was withdrawn.
10. A Hon'ble Division Bench led by the Hon'ble Justice SoumenSen got occasion to deal with the issue in two Intra-Court Appeals, MAT 6 of 2020 and MAT 7 of 2020. The Hon'ble Bench formed a *prima facie* opinion that there was no intelligible differentia between the schools which have been upgraded prior to 27.02.2009 and those schools that were upgraded after that date. However, as the notification 22.03.2017 was challenged in that action, the Appeal were disposed of by granting liberty to the petitioners to file comprehensive writ petitions challenging the Notification dated 22.03.2017.
11. Accordingly, two separate writ petitions, WPA 9676 of 2021 and WPA 9577 of 2021 were filed, and a Coordinate Bench of this Court held that the classification made in the circular could not be

justified, as it was not based on any intelligible differentia. Consequently, the Bench set aside the circular dated 22.03.2017.

12. Therefore, the decision to restrict the benefit to Headmasters of specific educational institutions suffered a setback when a Co-ordinate Bench of this Court, while dealing with a similar issue in WPA 6217 of 2021 set aside the circular dated 22.03.2017. The Bench was not persuaded to accept that there was any intelligible differentia justifying the classification between Headmasters of schools upgraded prior to the cut-off date and those upgraded thereafter.
13. The State did not assail the order passed in WPA 6217 of 2021. Instead, accepted the order and in compliance with the order passed in the said writ petition, the State extended the benefit of an additional 3% increment to the Headmasters and released pension and other retiral benefits to those Headmasters who had retired after availing such benefits during their service period. This Bench also expressed its agreement with the order passed in WPA 6217 of 2021 and passed a similar order in WPA 15452 of 2024.
14. On 23.06.2025, when this writ petition was last taken up for hearing, Mr. Baisya, the learned Advocate appearing on behalf of the State prayed for an accommodation to obtain necessary instructions as to whether any appeal had been preferred by the State assailing the order passed in WPA 15452 of 2024.
15. Mr. Mandal, learned Advocate appearing for the State, submits, upon instruction that the State has not preferred any appeal assailing the order passed in WPA 15452 of 2024.
16. Mr. Jana, learned Advocate representing the petitioner, has pointed out that the State has accepted the orders passed in those writ petitions

- and has even released the benefits pursuant thereto.
17. Thus, as on date, the Notification dated 22.03.2017 has been set aside and this Court has consistently held that there was no justification or intelligible differentia in classifying Headmasters of schools upgraded prior to 27.02.2009 and those upgraded thereafter, and that the State has not challenged this decision before any appropriate authority, thereby allowing it to attain finality, that decision is now binding on the State. Furthermore, the Principal Secretary, School Education Department, while passing a reasoned order in compliance with the direction issued in WPA 24816 of 2022, concluded that until the ambiguity prevailing in this regard is finally resolved by the Government as a matter of policy, the petitioner therein would be allowed to continue availing the benefit.
18. Therefore, based on the discussions and reasons set out in the preceding paragraphs, and applying the propositions laid down in decisions as referred to hereinabove, I direct respondent nos. 3 and 4 to release the pension and other retirement benefits in favour of the petitioner, on the basis of the petitioner's last drawn basic pay, after adjusting the amount already paid to the petitioner as provisional pension, within a period of eight weeks from the date of receipt of a copy of this order.
19. With these observations and order, **WPA 2115 of 2024 is disposed of.** No order as to costs.

**(PARTHA SARATHI CHATTERJEE, J.)**

