

17.02.2025
Court No.13
Item Nos. 13 & 14
Sp/pk

MAT 10 of 2015
With
CAN 3 of 2015
With
MAT 13 of 2015
With
CAN 3 of 2015

State of West Bengal & Ors.
Vs.
Mrinal Kanti Paul

Ms. Tapati Samanta
Mr. Arindam Ghosh

.... For the Appellant/State

1. The instant appeal is directed against the judgment and order dated 21.04.2014 passed in WP 14055 (W) of 2003 and WP 7233 (W) of 2014.
2. By the impugned order, the terminal benefits of the petitioner were directed to be calculated taking into consideration notionally all increments already paid to the petitioner and those unpaid as on the date of retirement, i.e., 31st January, 2013.
3. The facts of the case are, inter alia, that the writ petitioner was working as night watchman in the District Library, Tamluk, Purba Medinipur on temporary basis from 30th January, 1967. For some unexplained reason, the respondent/petitioner was appointed to the post of Library Assistant on 13th October, 1982 in the pay scale Rs. 300-685. Clause 6 of the appointment letter indicates

that the petitioner was to undergo a training in library science to be able to continue to serve as a Library Assistant.

4. The training would have to be obtained by the petitioner on his own. The petitioner was not entitled to any increment until he completes such training. The petitioner was admittedly a matriculate at the time of appointment as Library Assistant.

5. Under ROPA Rules of 1998, the pay scale of Library Assistant for persons holding Madhyamik without training in library science was Rs. 3000-5230/-. Increments were, however, granted to the petitioner from 1982 even though the petitioner did not have any training qualification in library science.

6. However, pursuant to an order No. 1858 dated 18th December, 2000 issued by the School Education Department, the petitioner's annual increment was stopped and he was refitted in a revised scale of pay Rs. 3350/- without any increment from the date of submission of option under ROPA 1998. The excess amounts obtained by the petitioner were directed to be refunded towards increment. Consequently, the basic pay of the petitioner came to be reduced to Rs.3350/- from Rs.5350/-.

7. The writ petitioner challenged the reduction by way of W. P. No. 12180 (W) of 2001. By order dated 17.03.2003

passed by a Single Bench of this Court, the petitioner was directed to be furnished a copy of the Memo dated 18.12.2000 and a fresh hearing of the petitioner's case was ordered by a Single Bench of this Court. The petitioner was heard afresh and an order dated 07.08.2003 was passed by the District Library Officer refusing to revert the petitioner to his old higher pay scale.

8. The second writ petition was thereafter filed challenging the legality of the Memo dated 18th December, 2000 and 19th December, 2000 and the order of the District Library Officer dated 2nd June, 2001 and 7th August, 2003. Affidavits were called by the Single Bench and the State had filed an affidavit-in-opposition.

9. In the said affidavit-in-opposition, State contended that since the petitioner in terms of ROPA 1998 and Memo dated 18.12.2000 did not complete the training course in Library Science, he is only entitled to pay scale of Rs.3350/-. Earlier remuneration which included increments of Rs.5350/- could not be given to the writ petitioner.

10. Having carefully gone through the impugned order, this Court finds that the learned Single Bench committed error in holding that while the petitioner did not secure 35 per cent marks to successfully complete the training course, undergoing of three years training course itself

was considered sufficient for the purpose of entitlement of ROPA 1998.

11. The aforesaid view of the learned Single Bench is akin to a person going through a two years higher secondary course but failing to secure successful marks therein and is yet treated as having successfully completed Higher Secondary Examination.

12. The aforesaid view is ex facie erroneous. The writ petitioners are not entitled to pay scale of Rs.5350/-. They were entitled to pay scale of Rs.3350/- for not being able to successfully complete the aforesaid library training course.

13. However, in view of the decision of the Supreme Court in the case of **State of Punjab and others Vs. Rafiq Masih (White Washer) & others reported in (2015) 4 SCC 334** no excess payment can be recovered for the sums already paid to the respondent/writ petitioner. Terminal benefits and retirement dues of the writ petitioner would have to be settled on the last drawn pay of Rs.3350/- only.

14. With the aforesaid observations, the impugned judgement and order dated 21.04.2014 shall stand set aside.

15. The appeals are allowed.

16. The concerned District Library Officer, Purba Medinipur shall forward the necessary calculations of the last drawn pay of the writ petitioner/respondent based on the above judgement to the DPPG, West Bengal. Let fresh pension payment order be issued by the DPPG, West Bengal based on the last drawn pay of the writ petitioner/respondent as Rs.3350/-, if not already issued.

17. It is once again made clear no recoveries shall be made towards the over-drawal and excess increments granted to the writ petitioner from 1982 to 2001.

18. In view of disposal of the appeals, connected applications are also disposed of.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)