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(DL)

19.03.2025
Ct. No. 18
(ARPAN)

W.P.A. 4078 of 2025

**Afroz Begum
Vs.
The State of West Bengal & Ors.**

Mr. Haradhan Mondal

...for the Petitioner

Mr. Vimal Kumar Shahi, AGP
Ms. Pratiti Das

...for the State

Mr. Arjun Roy Mukherjee
Mr. S. Mukherjee

...for Respondent No.2

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

Petitioner participated in a selection process in 2004 for being engaged as Para Teacher in English in Debagram Barampur Madhyamik Vidyalaya, Purba Bardhaman. There was dispute with regard to petitioner's qualification to the extent whether petitioner having graduation degree obtained in 1979 with compulsory subject English carrying 200 marks was eligible to be appointed as Para Teacher in English or not. Ultimately, concerned authority obtained clarification from Burdwan University and it was found that since petitioner studied in old degree course with compulsory subject English which was carrying 200 marks; therefore, she was decided to be eligible to be appointed in the post of Para Teacher in English in the aforesaid school. Such decision was taken by the District Project Officer, Sarva Siksha Mission (for short 'SSM'), Bardhaman on 13th September, 2011 in terms of the

order dated 18th March, 2010 passed by a Co-ordinate Bench on a writ petition being WPA 4361 of 2006. Subsequently, petitioner was engaged as Para Teacher on 21st April, 2012 and retired on 31st March, 2019.

Petitioner claims compensation as well as notional benefits reckoning her service from 2004 onwards since subsequently, she was found to be eligible to be engaged as Para Teacher in English in the aforesaid school *vide* order dated 13th September, 2011 passed by the District Project Officer, SSM, Bardhaman.

Claiming benefits with effect from 2004 another writ petition was filed by the petitioner being WPA 10559 of 2014 and same was disposed of by a Co-ordinate Bench by an order dated 6th December, 2024 directing State Project Director, PBSSM to decide the claim of the petitioner. Pursuant to the order dated 6th December, 2024 passed by the Co-ordinate Bench, State Project Director, PBSSM being respondent no.2 passed an order dated 30th January, 2025 whereby claim of the petitioner to grant compensation and notional benefits have been refused assigning certain reasons. Such order dated 30th January, 2025 is questioned in the present writ petition.

Having considered the submissions made on behalf of the parties, it appears that petitioner participated in selection process in 2004 and ultimately was found eligible to be appointed as Para Teacher *vide*

order dated 13th September, 2011 passed by the concerned District Project Officer, SSM and had discharged her duties as Para Teacher from 21st April, 2012 to 31st March, 2019.

It is true that if petitioner would have been appointed as Para Teacher in 2004, she would have been benefited with remunerations for the period from 2004 till date of her engagement as Para Teacher on 21st April, 2012 but at the same time it is required to keep in mind that during the said period petitioner did not discharge her duties as Para Teacher. Therefore, no scope is left open to direct the respondent authorities to release financial benefits in favour of the petitioner for the said period from 2004 till 20th April, 2012.

This Court was considering to grant notional benefits in favour of the petitioner from the date of filing of the first writ petitioner being WPA 4361 of 2006 but it is pointed out by the learned advocate representing Paschim Banga Sarva Shiksha Mission (for short '*PBSSM*') that petitioner being Para Teacher was only entitled to receive consolidated monthly remuneration since pay of a Para Teacher is not fixed as per regular scale of pay. Therefore, there is no scope left to grant notional benefits from a previous date though petitioner was appointed on and from 21st April, 2012.

However, it is further submitted by Mr. Arjun Roy Mukherjee, learned advocate representing PBSSM that if a Para Teacher completes a particular period of service, he/ she is entitled to receive one time lump sum amount as retiral benefit. It is also submitted to that extent since no prayer was made before the State Project Director, PBSSM such issue remains undecided even after the impugned order was passed on 30th January, 2025. It is further submitted that only prayer which was made before the State Project Director, PBSSM was to grant arrear salary from the previous date.

It has been already alluded above that petitioner participated in the selection test in 2004 and ultimately was found to be eligible considering her academic qualification and was engaged as Para Teacher with effect from 21st April, 2012. If petitioner would have been appointed in 2004 after completion of selection process, she would have earned retiral benefits in connection with her service as Para Teacher. Due to delay in deciding her eligibility to be appointed as Para Teacher, she lost the scope to be engaged in 2004.

Considering the above aspect, Court directs respondent authorities to treat the petitioner's engagement as Para Teacher from 1st January, 2006 since the first writ petition was filed in 2006 and taking into consideration engagement of the petitioner on 1st

January, 2006, if petitioner is found to be entitled to receive retiral benefits, same shall be accorded to her by passing necessary order.

Accordingly, State Project Director, PBSSM being respondent no.2 is directed to take a fresh decision on petitioner's entitlement to receive one time lump sum financial benefits reckoning her service from 1st January, 2006 and appropriate order shall be passed by four (4) weeks from the date of communication of this order. Petitioner shall be granted benefits if she is found to be eligible in terms of relevant norms. The decision to be taken by respondent no.2 shall be communicated to the petitioner by ten (10) days thereafter.

With the above direction, writ petition stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)