

W.P.A. 8351 of 2025

**Krishnendu Jana
Vs.
The State of West Bengal & Ors.**

Ms. Santi Das
Mr. R.D. Bhowmick
...for the Petitioner
Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
...for the State

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

In the writ petition memo dated 21st March, 2025 issued by the District Inspector of Schools (SE) Kolkata being respondent no. 3 is under challenge whereby petitioner was found to be ineligible to draw pension taking note of his service as Headmaster in Kidderpore Milani High School, Kolkata with effect from 18th November, 2015. Reckoning service of the petitioner as headmaster of the school it was found by the respondent no. 3 that tenure of service of the petitioner was less than 10 years. Therefore, he was not eligible to receive pension.

Learned advocate representing the petitioner questioned the decision as contained in memo dated 21st March, 2025 in the backdrop that

petitioner prior to joining the post of headmaster worked as approved assistant teacher in DA getting school with effect from 1st August, 1991 till 17th November, 2015 and thereafter joined the post of headmaster on 18th November, 2015. It is further submitted that in consideration of ten years' approved service in a recognized school petitioner was found to be eligible to be appointed as headmaster and recommendation was made by the concerned authority of the West Bengal Regional School Service Commission, Southern Region on 11th July, 2014 for appointment of the petitioner as headmaster. It is also submitted that while joining the post of headmaster reckoning past approved service of the petitioner of more than 10 years pay fixation was made as headmaster.

In support of the case made out reliance is placed on the order passed by a coordinate Bench in WPA 7567 of 2011 (Jai Shankar Singh Vs. State of West Bengal & Ors.) dated 28th June, 2012 and it is further submitted that the decision of the coordinate Bench dated 28th June, 2012 was affirmed by the Hon'ble Division Bench vide order dated 27th June, 2013 passed on an intra Court appeal being MAT 284 of 2013.

State respondents are represented by learned advocate who has opposed the prayer of the petitioner and also submissions are made in order to defend the decision of the respondent no. 3 as contained in memo dated 21st March, 2025.

Issue is whether petitioner is entitled to receive pension reckoning his service as assistant teacher in DA getting school prior to joining the post of headmaster on 18th November, 2015. If service of the petitioner as headmaster is only taken into consideration petitioner's length of service falls short of qualifying service of 10 years as required under Death-cum-Retirement Benefit Scheme 1981. On the contrary if approved service rendered by the petitioner in DA getting school prior to joining the post of headmaster is taken into consideration length of service of the petitioner is greater than 10 years.

While examining the issue this Court finds that petitioner worked as an approved assistant teacher in DA getting school with effect from 1st August, 1991 till 17th November, 2015 and in connection with service rendered in DA getting school approval was granted by respondent no. 3 vide memo dated 29th August, 1997. There is another aspect which requires to be considered that for being appointed as headmaster in a

Government aided school one of the requisite criteria is ten years' approved service as an assistant teacher in a recognized school. Petitioner offered his candidature for being appointed as headmaster and reckoning past approved service in DA getting school petitioner was selected to be appointed as Headmaster in Kidderpore Milani High School, Kolkata. These issues were not considered by the respondent no. 3 while taking decision on eligibility of the petitioner to receive pension. Recognizing past approved service in DA getting school pay of the petitioner being headmaster was fixed while joining the second school. Therefore, after superannuation of the petitioner on 31st March, 2025 it is not left open to respondent no. 3 to deny pensionary benefits to the petitioner by inappropriately observing that length of service of the petitioner is less than 10 years.

The case of the petitioner is fortified by the order of a coordinate Bench dated 28th June, 2012 passed in Jai Shankar Singh (supra) wherein it was decided in similar situation that service rendered in DA getting school needs to be taken into consideration while determining eligibility of the incumbent to receive pension. Decision in Jai Shankar Singh (supra) was not

interfered with by the Hon'ble Division Bench and the appeal being MAT 284 of 2013 was dismissed vide order dated 27th June, 2013.

In view of aforesaid discussion Court finds memo dated 21st March, 2025 is erroneous and same is set aside. Respondent no. 3 is directed to settle the pension case of the petitioner by fortnight from the date of communication of this order and forward the same by 7 days thereafter to the Director of Pension, Provident Fund and Group Insurance. On receipt of pension case respondent no. 4 shall issue Pension Payment Order by 7 days thereafter on compliance of necessary formalities and based on Pension Payment Order pensionary benefits shall be released in favour of the petitioner by fortnight thereafter.

Respondents are directed to release the pensionary benefits of the petitioner at an early date but not later than 10 (ten) weeks from the date of communication of the order.

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.)