

D/L - 20
10/06/2025
Court. No. 18
S.Kundu

W.P.A. 10102 of 2025

Laba Kumar Giri
Vs.
State of West Bengal & Ors.

Mr. Kamalesh Bhattacharyya
Mr. Bidhan Biswas

...for the petitioner.

Mr. Jahar Lal De
Mr. Sourav Choudhury

...for the State.

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

Petitioner is a Para Teacher in a primary school
who was not permitted to function as Para Teacher for
the period from 3rd September, 2011 till 27th November,
2024 in view of his alleged entanglement in a criminal
proceeding under Section 376 of the Indian Penal Code.
However, it is submitted by the learned advocate
representing the petitioner that on 25th January, 2024
order of acquittal was passed subsequent thereto the
petitioner was permitted to commence functioning as
Para Teacher. It is also brought to the notice of this
Court that after petitioner was enlarged on bail, he
approached the concerned respondents authority for
permitting him to resume duty subject to final outcome
of the criminal proceeding. District Project Officer,
SSM, South 24 Parganas rejected the prayer of the

petitioner to function as Para Teacher during pendency of the criminal proceeding and an order was passed on 3rd October, 2013.

However, it is submitted that in view of order of acquittal dated 25th January, 2024 since petitioner resumed duty on 28th November, 2024 he is entitled to receive arrear salary for the period during which petitioner could not function as Para Teacher.

State respondents are represented by learned advocate who has opposed the prayer of the petitioner on relying upon the order passed by the District Project Officer, SSM, South 24 Parganas dated 3rd October, 2013. It is also submitted that in connection with service of a Para Teacher working in a primary school, there is no provision for issuance of deemed suspension order due to involvement of said teacher in a criminal proceeding.

Having considered the submissions made on behalf of the parties, it appears that petitioner did not work for the period from 3rd September, 2011 till 27th November, 2024. After order of acquittal was passed on 25th January, 2024 petitioner resumed duty on 28th November, 2024. Since there is no provision for issuance deemed suspension order in view of involvement of the petitioner in a criminal case question of lifting suspension order does not arise. It is a case where petitioner was not permitted to work for

the aforesaid period for which the petitioner is not entitled to receive arrear salary from 3rd September, 2011 to 27th November, 2024.

It needs to be recorded herein that the order dated 3rd October, 2013 passed by the District Project Officer, SSM, South 24 Parganas was not contemporaneously challenged by the petitioner and after order of acquittal petitioner ought not to be benefited for acquiesce and laches in the matter of questioning such order dated 3rd October, 2013.

Therefore, petitioner is not entitled to receive arrear salary for the period from 3rd September, 2011 onwards.

However, it is submitted on behalf of the petitioner that at least from the date following the date of order of acquittal dated 25th January, 2024 his claim for salary till 27th November, 2024 needs consideration.

Leave is granted to the petitioner to make a representation to the respondent no. 5 claiming arrear benefits from 26th January, 2024 till 27th November, 2024. If such representation is made within fortnight from date, respondent no. 5 shall consider the same in accordance with law within a period of eight weeks thereafter after granting opportunity of hearing to the petitioner or his representative.

The decision to be taken by respondent no. 5 shall be communicated to the petitioner by fortnight thereafter.

Writ petition is partly allowed.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with requisite formalities.

(Saugata Bhattacharyya, J.)