

07.11.2025
Item No.07
Court No.11
KCP

MAT 916 of 2025
with
IA No. CAN 1 of 2025
with
IA No. CAN 2 of 2025

The State of West Bengal & Ors.
- Versus -
Radhe Shyam Tripathi & Ors.

Mr. Suman Dey,
Mr. Soumik Dey.
...for the appellants

Mr. Himadri Barua,
Mr. Biswajit Das.
...for the writ petitioner/
Respondent No.1

Affidavit-of-service, as filed, be kept on record.

As we have invited the learned advocates appearing for the respective parties to advance their arguments on merits of the matter, the delay in preferring the appeal is condoned. The application being IA No. CAN 1 of 2025 is, accordingly, disposed of.

The present appeal has been preferred by the State and its functionaries challenging an order dated 24th March, 2025 passed by the learned single Judge in the writ petition being WPA 5365 of 2025. The said writ petition was preferred primarily praying for issuance of necessary directions upon the respondents to release pension and other retiral dues in favour of the writ petitioner taking into

consideration his service for the period from 28th July, 1993 to 31st December, 2024.

The following facts are not in dispute. The writ petitioner/respondent no.1 was approved as an assistant teacher in a DA getting school, namely, Shree Vishuddhanand Saraswati Vidyalaya (hereinafter referred to as the first school) *vide* memo dated 29th March, 1995 with effect from 28th July, 1993 and during the said period he was disbursed government DA. He thereafter, participated in a selection process which was conducted by the West Bengal Central School Service Commission (hereinafter referred to as the said Commission) for appointment to the post of Head Master. Taking into consideration the service rendered by the writ petitioner in the first school, he was found to be eligible and after he emerged to be successful in the said selection process, he was recommended by the said Commission for appointment to the post of Head Master in Baba Sitaram Vidyapith (hereinafter referred to as the second school) and such service was approved with effect from 2nd December, 2011 by the appellant no.3. The second school is a recognized and government aided institution. Thereafter, the writ petitioner retired from his services on 31st December, 2024, however, his pensionary benefits were not being

disbursed taking into consideration the service rendered by him in the first school. Aggrieved thereby, he preferred the writ petition which had been disposed of by the order impugned in the present appeal.

Drawing our attention to the West Bengal Recognised Non-Government Educational Institution Employees (Death-cum-Retirement Benefit) Scheme, 1985 (hereinafter referred to as the said scheme), Mr. Dey, learned advocate appearing for the appellants argues that the said scheme does not apply to DA getting schools and as such, the service rendered by the writ petitioner in the first school cannot be reckoned for the purpose of disbursement of pensionary benefits. Such argument, as urged, was glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Barua, learned advocate appearing for the writ petitioner/respondent no.1 denies and disputes the contention of Mr. Dey and submits that the service rendered by the writ petitioner in the DA getting school was approved by the competent authority and was taken into consideration at the time of his appointment to the post of Head Master in a government aided school and that as such, at the

time of disbursement of pensionary benefits, the appellants cannot take a different stand and contend that the period of service rendered in a DA getting school cannot be taken into consideration in computing the period of service for disbursement of pensionary benefits.

He further submits that the competent authority upon conscious consideration of the issue had issued a memo dated 20th May, 1988 wherein it has been categorically observed that the service rendered by a teaching or non-teaching in an unaided school shall be computed towards pensionable service. Let the copy of the said memo dated 20th May, 1988, as placed, be kept on record.

The learned single Judge in our opinion rightly discounted the arguments advanced on behalf of the State respondents that the period of service rendered by a teaching or a non-teaching in a DA getting school cannot be taken into consideration for the purpose of calculation of the pensionary benefits since the said period of service in a DA getting school was taken into consideration at the time of recommendation and appointment to the post of Head Master for which the eligibility criteria was that he would have to discharge 10 years of experience in a government recognized institution.

The argument of Mr. Dey that the said scheme is not applicable to DA getting institution is also not acceptable inasmuch as the writ petitioner herein retired from a recognized aided school and he was appointed to the said school taking into consideration the service rendered by him previously in a DA getting school.

The learned single Judge upon dealing with all the factual issues arrived at specific findings and we do not find any infirmity in the same warranting interference in the present appeal.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)