

08.12.2025
Item No.01
Court No.11
Avijit Mitra

**FMA 1215 of 2025
with
IA No.CAN 1 of 2025**

**Biswanath Mallik
- Versus -
The State of West Bengal & ors.**

Mr. Dilip Kumar Maiti
....for the appellant
Mr. Swapan Kumar Dutta, Ld. G.P.
Mr. Nilotpal Chatterjee,
Mr. Shibasish Banerjee
....for the State
Mr. Arindam Chattopadhyay,
Mr. Soumik Dey
.....for the DPSC, Nadia

The order under challenge in this appeal is the order dated 24th June, 2025 passed in WPA 10465 of 2025. By the said order, the learned Single Judge declined to exercise discretion in favour of the writ petitioner and, consequently, dismissed the writ petition. However, it was clarified that the order would not preclude the writ petitioner from approaching the concerned respondent authorities for revision of pension in terms of the Revision of Pay and Allowance (for short, ROPA), 2019, if the petitioner's pension had not yet been refixed under ROPA 2019.

The facts necessary to be narrated for effective disposal of the present appeal are that the appellant, an ex-Assistant Teacher of Murutia Primary School under Karimpur West Circle, Nadia, retired from service upon attaining the age of superannuation on 29th February, 2004, after completing

approved service of 23 years 4 months and 19 days without any break. His Pension Payment Order (PPO) was issued on 27th February, 2024. On 4th February, 2025, he submitted a representation before the concerned respondents seeking revision of his pension in terms of memorandum No. 535-F(Pen) dated 1st October, 2019. However, despite receiving such representation, no effective steps were taken in this regard. This inaction prompted the appellant to file the writ petition being WPA 10465 of 2025. By the order impugned in this appeal, the writ petition was dismissed. Nevertheless, the learned Single Judge granted liberty to the appellant to approach the authorities for revision under ROPA 2019 if his pension had not yet been refixed in terms of the said ROPA 2019.

Mr. Maiti, learned advocate appearing for the appellant, invites our attention to Annexure P-5, being a communication of the S.I. of Schools dated 28th February, 2024 addressed to the District Inspector of Schools (P.E.), Siksha Bhavan, Nadia, and contends that in terms of the memo dated 1st October, 2019, the pension of a similarly placed candidate has been revised.

He submits that the appellant's prayer for revision has been denied in a manner that amounts to hostile discrimination against him. He, therefore, prays for a direction upon the concerned respondents to revise the appellant's pension in terms of the memo dated 1st October, 2019.

Mr. Nilotpal Chatterjee, learned advocate appearing for the State respondents, submits that Memo No. 535-F(Pen)

dated 1st October, 2019 is applicable only to Government employees. The appellant, being an Assistant Teacher of a primary school, cannot be treated as a Government-employee and, therefore, according to him, the said memo dated 1st October, 2019 is not applicable to the appellant.

Mr. Arindam Chattopadhyay, learned advocate appearing for the DPSC, Nadia, adopted the submissions made on behalf of the State authorities and submits that since no matching order has been issued extending the applicability of the memo dated 1st October, 2019 to Assistant Teachers of primary schools, the appellant's claim for revision of pension in terms of ROPA 2019 cannot be entertained.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

The Finance Department, Government of West Bengal, by its memo dated 1st October, 2019, made provisions for revision of pension/family pension of pre-2016 State Government pensioners/family pensioners with effect from 01.01.2020, covering all pensioners and family pensioners who were in receipt of pension prior to 01.01.2016, in the manner indicated in the said order.

We have been informed that all pre-01.01.2016 State Government pensioners are enjoying the benefits of revision of pension in terms of ROPA 2019. However, as submitted on behalf of the State as well as the Council, such benefit has not been extended to Assistant Teachers of primary schools. No explanation is forthcoming as to why this benefit has not been made applicable to the School Education Department.

As previously noticed, the communication dated 28th February, 2024 (Annexure P-5 at page 32 of the writ petition) indicates that the grant of pay and revision of pay of Assistant Teachers of primary schools is governed by Circular G.O. No. 681-F(Pen)/IP-251/19 dated 23rd December, 2019 and G.O. No. 535-F(Pen) dated 1st October, 2019, and that a person similarly situated to the writ petitioner has been extended the benefit of revision of pay. However, such benefit has not been granted to the appellant.

The order impugned in the appeal observes that the benefit of the memorandum dated 1st October, 2019 ought not to be extended to a retired primary teacher. However, this observation is not sustainable, more so when it was simultaneously observed that dismissal of the writ petition would not preclude the writ petitioner from approaching the concerned authorities for revision of pay in terms of ROPA 2019.

In view thereof, the order impugned in this appeal is modified by deleting the observation that the benefit of the memorandum dated 1st October, 2019 ought not to be extended to the retired primary teacher, and by granting the appellant an opportunity to submit a fresh representation to the Secretary, Department of School Education, Government of West Bengal, within a period of two weeks from the date.

In the event such representation is received from the writ petitioner/appellant, the Secretary shall consider the same after affording an opportunity of hearing to the appellant, take a

reasoned decision in accordance with law, and communicate the same to the appellant.

The entire exercise shall be carried out within a period of eight weeks from the date of receipt of such representation from the appellant.

With the above observations and directions, the appeal and the connected application are disposed of.

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

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

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