

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 19357 of 2021

**Kartick Konai alias Kartic Konai
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Mr. Saikat Banerjee, Id. Sr. Adv.
: Ms. Juin Dutta Chakraborty
: Ms. Tiya Ghosh
: Mr. Shirsha Banerjee

For the State : Mr. Supriyo Chattopadhyay, Id. AGP
: Ms. Sayantani Bhattacharya
: Mr. Manaj Kumar Mondal

Judgment on : **14.11.2025**

Rai Chattopadhyay, J. :-

(1) The writ petitioner claims himself to be an organizer non-teaching Group-D staff of the school appointed therein on and from November 20, 1999. The school is said to be recognized in the year 2000. The petitioner claims to be regularized in the said school with full financial benefit with effect from the date from which he has been granted approval, though notionally. Since vide the impugned order of approval dated March 13, 2014, he has been granted notional approval not with the actual financial benefit from October 1, 2009 to February 28,

2014, the petitioner is aggrieved thereby. Also, since the Commissioner, School Education, West Bengal in his order dated August 22, 2019, has refused to allow the writ petitioner arrear salary for the said period, on the ground that during such period his service has only been approved notionally and not with any actual financial benefit payable to him for that period, the petitioner is further aggrieved. Therefore, he has filed the instant writ petition to challenge both the said orders and for appropriate relief.

(2) Mr. Saikat Banerjee learned senior counsel has represented the writ petitioner in this case. He has submitted that the writ petitioner has been appointed in the school pursuant to the resolution of the school managing committee dated November 9, 1999 and November 20, 1999 respectively and that he has been working therein continuously and without any break since the date of his appointment that is November 20, 1999. That, after the school was recognized in the year 2000, the headmaster of the school has recommended name of the writ petitioner for approval in the post of Group-D staff of the said school, on June 26, 2004, but to no avail. Hence, the petitioner moved his first writ petition before this Court being W.P. No. 18563(w) of 2004. Vide order dated January 10, 2014, in the said writ petition the Court has directed the respondent No.3/the District Inspector of Schools (Secondary Education) Suri [herein after mentioned as the 'DI'] to regularize the service of the writ petitioner as a Group-D employee of the school, within a stipulated time.

(3) He has further submitted that pursuant to the Court's order dated January 10, 2014, the writ petitioner was granted

approval vide Memo dated March 13, 2014, with effect from October 1, 2009. Mr. Banerjee has submitted that the petitioner has been granted salary and other emoluments with effect from the date March 1, 2014 whereas the writ petitioner ought to have been granted the same from the date of his approval to the post, that is, October 1, 2009. He submits that the writ petitioner having been in continuous and uninterrupted service in the said school from the date of his appointment, ought to have been considered as eligible for salary and other financial benefits, from the date of his approval and not from any later date. He submits further that the spirit of the order of the Court dated January 10, 2014, is only the same.

- (4)** According to Mr. Banerjee, learned senior counsel, granting approval of service of the writ petitioner only on notional basis from October 1, 2009 to February 28, 2014 without any actual financial benefit is contrary to the order of this Court dated January 10, 2014 as well as it is prejudicial to the vital rights touching life of the writ petitioner.
- (5)** Mr. Banerjee has submitted that a letter of the school authority dated February 9, 2018, seeking grant of arrear salary to the writ petitioner from October 1, 2009 to February 28, 2014, has never been considered by the respondent authority. A demand justice letter of the learned advocate of the petitioner dated May 18, 2018 followed thereafter also to fetch no redress. Hence, the petitioner filed his second writ petition in this Court being W.P.No. 7871 (w) of 2018. In the same the Court vide order dated April 5, 2019, has directed the respondent authority to consider the petitioner's representation and pass a reasoned order thereon.

- (6)** The resultant order is that of the Commissioner, School Education, West Bengal dated August 22, 2019, which has been challenged in the instant writ petition.
- (7)** The respondent / State has been represented by Mr. Supriyo Chattopadhyay. The respondent supports the impugned order dated August 22, 2019, as a just fair and proper order. It has been submitted that the Court has never directed for grant of financial benefit of salary and other emoluments to the writ petitioner from the date of his approval excepting only directing that the petitioner is to be approved in service with effect from October 1, 2009. Hence, accordingly the writ petitioner has been granted approval of service with effect from the date as directed, with notional benefit. According to the State respondent it has not acted in contravention with the Court's order in doing so, as alleged. It has been submitted that the petitioner shall not be entitled to the actual financial benefit with effect from the date of his approval in service. Hence, there is no infirmity or illegality in the order of the Commissioner, School Education, West Bengal dated August 22, 2019, as alleged in the instant writ petition and that the writ petition is liable to be dismissed.
- (8)** The respondent's stand as above is however without consideration of the fact and without disputing but accepting, that the petitioner has been in continuous employment in the school from the date of his appointment, particularly during the period from October 1, 2009 to February 28, 2014. The Court while delivering the order dated January 10, 2014 has taken into consideration of the fact of such uninterrupted and

continuous service of the writ petitioner in the school. Hence, the Court has directed him to be granted approval in service from the date October 1, 2009.

- (9)** The respondent authority has passed the impugned order dated November 20, 1999, while considering the petitioner's/school authority's prayer for grant of arrear salary to him, for the period from October 1, 2009 to February 28, 2014. The said respondent has held that since the petitioner has been granted notional approval of service from October 1, 2009 and that with actual financial benefits with effect from March 2014, no arrear salary for the period from October 1, 2009 to February 28, 2014, can be granted to the writ petitioner.
- (10)** This Court is constrained to find that the said impugned order is not in terms of the letters and spirit of the Court's earlier order dated January 10, 2014. Similar is with regard to the order dated March 13, 2014 of approval of service of the writ petitioner, in which he has been granted notional approval from the date October 1, 2009. As an organizer non-teaching staff of the school the petitioner's past services cannot be ignored by the authority, while granting him approval or paying financial benefits. The primary service and goal of an organizer non-teaching staff of a school pervades beyond their general and regular duties therein and about gradually making themselves instrumental to build up the viability, credibility and the goodwill of the institution by assisting in the management and administrative tasks of the school. They have already contributed fairly to community liaison to help to build a bridge between the school and the local inhabitants and the local education authorities to ensure smooth functioning of the

school and eventual recognition thereof. It is a wider sphere in which the person has acted and contributed even before recognition of the school and his approval in service, which the State authority being a model employer can hardly ignore. The position essentially involved providing service and support to the institution in fostering the development of the future generation both physically and intellectually, so contributing to the broader objective of community enhancement and the institutional aim of formal government integration.

- (11)** The role of the State as a model employer is to act as a constitutional employer not a market player, by upholding principles of fairness, justice and dignity in its employment practices. Regularization in a permanent nature of service and non-exploitation are the traits which the model State employer has to follow.

- (12)** These valued principles appear to have been ignored by the respondent in its orders dated March 13, 2014 and August 22, 2019, as impugned in this case. The Court has directed for approval of service of the writ petitioner after considering the continuous and uninterrupted service rendered by him to the institution for more than 10 years. The respondent has not objected to the same or been aggrieved thereby, as they have not challenged the Court's order as above. The order has become final and binding upon parties. As a matter of fact, the respondents have taken steps to comply with the same. However, the manner in which the same has been complied with, as discussed earlier, has defeated the tone, tenure and objective of the Court's order. Thus, the same has turned to be

unjustified, unreasonable, irrational and also in derogation and violation of the age-old principles as discussed above.

(13) The Court therefore finds the order of the respondent/ Commissioner, School Education Government of West Bengal dated August 22, 2019 to be unsustainable. Similarly, the Court finds the order of approval of the writ petitioner dated March 13, 2014, to be contrary to the settled legal principles and thus unsustainable in the eye of law, to the extent that the petitioner, in spite of rendering continuous service undisputedly, would only be entitled to notional approval for the period from October 1, 2009 to February 28, 2014, without any actual financial benefit payable to him for the said period.

(14) On consideration of the facts of the case as well as the legal principles, this Court finds that the writ petitioner is entitled to the actual financial benefits in terms of salary and other pay and emoluments along with the ancillary service benefits, for the period from the date of his approval in service that is from October 1, 2009 to February 28, 2014.

(15) Hence, this writ petition is allowed with the directions as follows:

- a.** The order of approval of the writ petitioner dated March 13, 2014, is directed to be partially modified, to the extent that the petitioner would be entitled to be approved in service from October 1, 2009, with appropriate financial benefit including salary and other actual and ancillary benefits, for the period from October 1, 2009 to February 28, 2014;

- b.** The respondent No.3/DI shall immediately issue an appropriate order in compliance with the direction as above, by modifying his earlier order dated March 13, 2014, positively within a period of 3 weeks from the date of communication of copy of this judgment;
- c.** The order of the Commissioner School Education, Government of West Bengal dated August 22, 2019 is set aside;
- d.** The writ petitioner is entitled to the arrear salary and other actual and ancillary financial benefits, for the period from October 1, 2009 to February 28, 2014;
- e.** The respondent No.3/DI is directed to disburse the entire arrear amount, within a period of 4 months from the date of communication of copy of this judgment.

(16) The writ petition No. WPA 19357 of 2921 is allowed and disposed of.

(17) Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)