

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

APPELLATE SIDE

Present:

The Hon'ble Justice Tapabrata Chakraborty

&

The Hon'ble Justice Partha Sarathi Chatterjee

MAT 1778 of 2025

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IA No. CAN 1 of 2025

The Headmaster/Teacher-in-Charge, Jara High School, Paschim Medinipur

Versus

Durga Charan Ghosh & Ors.

<i>For the Appellant</i>	:	Mr. Anjan Bhattacharya, Ms. Anita Shaw, Ms. Seema Thakur.
<i>For the State</i>	:	Mr. Sirsanyo Bandopadhyay, [Sr. Standing Counsel]
<i>For the Respondent No.1</i>	:	Mr. Sudip Ghosh Chowdhury, Ms. Shreyata Mitra, Ms. Pritha Biswas.
<i>For the WBBSE</i>	:	Ms. Koyeli Bhattacharyya, Mr. Bibek Datta.
<i>Hearing is concluded on</i>	:	11 th December, 2025.
Judgment On	:	11th December, 2025.

Tapabrata Chakraborty, J.

1. The present appeal has been preferred challenging an order dated 22nd September, 2025 passed by the learned single Judge in a writ petition being WPA 20217 of 2025. The said writ petition was preferred by the writ petitioner, namely, Durga Charan Ghosh (in

short, Durga), *inter alia*, praying for disbursement of pension and retirement benefits.

2. The following facts are not in dispute. Durga participated in a selection process for appointment to the post of an Assistant Teacher in the Language group in Jara High School (hereinafter referred to as the said school). The qualification for the said post was '*M.A. (Bengali) B.Ed. with Sanskrit at degree level*' carrying a pay scale of Rs. 6,000/- -12,000/-. Durga was the only candidate found suitable but the one-man panel was not sent to the then District Inspector of Schools (S.E.), Medinipur (hereinafter referred to as the D.I.) by the school authorities and as such Durga preferred a writ petition which was disposed of with a direction upon the said school authorities to send the panel to the D.I. and the said D.I. was also directed to approve the panel, in accordance with law. Aggrieved thereby, the said school authorities preferred an intra-Court appeal in which direction was issued upon the D.I. to pass an appropriate order as regards approval of the panel. Pursuant to such direction, an order was passed by the said D.I. on 3rd August, 1999 refusing to approve the panel. Challenging the said decision, Durga preferred a writ petition being WP 15557 (W) of 1999 and pursuant to the order passed in the same on 8th November, 2000, the D.I. ultimately approved the one-man panel and the appointment of Durga in the concerned post was approved *vide* memo dated 3rd April, 2001. Durga was due to retire on 31st December, 2020 and about 10 days

prior thereto, two representations were submitted by the appellant to the President of the West Bengal Board of Secondary Education (hereinafter referred to as the said Board) stating *inter alia*, that Durga's B.Ed. certificate was sent for verification and the concerned university has sent a memo stating that the said certificate is fake. Subsequent thereto, a preliminary enquiry was conducted by respondent no.6 and thereafter a show cause notice was issued to Durga by the Board *vide* memo dated 23rd August, 2021. Durga replied to the said show cause by a letter dated 4th October, 2024 and thereafter hearing was conducted and the President, *Ad hoc* Committee of the Board passed an order on 20th May, 2025 observing, *inter alia*, that '*the entire liability cannot be thrown alone on the shoulder of the said Assistant Teacher. The concerned school authority as well as the District Inspector concerned are equally responsible as without verifying the genuinity of his certificates they allowed him to work as Assistant Teacher. If his pensionary benefits are withheld and if he moves before Court of law there is every possibility that Court will decide in his favour*' and directing, *inter alia*, that '*Disciplinary Proceedings, if already initiated, is not required to proceed any further and the pension and other retirement benefits of Durga charan Ghosh, retired Assistant Teacher of Jara High School, Paschim Medinipur are to be released without any delay*'. As the said order was not complied with, the writ petition being WPA 20217 of 2025 was preferred by Durga in which the

appellant was a party respondent. Aggrieved by the said order dated 22nd October, 2025, the Headmaster of the said school has preferred the instant appeal.

3. Mr. Bhattacharyya, learned advocate appearing for the appellant strenuously argues that the learned single Judge failed to appreciate that under the provisions of the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staff) Rules, 2018 (hereinafter referred to as 2018 Rules), the disciplinary authority could not have issued any direction towards disbursement of pension and other retirement benefits in favour of Durga while considering an issue of initiation of disciplinary proceeding against him and thus the order dated 20th May, 2025 passed by the respondent no.3 suffers from a jurisdictional error.

4. Drawing our attention to the correspondence exchanged by the school authorities with the respondent no.6, the authorities of the Board, the report submitted by the Controller of Examinations, Ranchi University and the representation submitted by Durga in reply to the show cause notice, Mr. Bhattacharyya contends that the B.Ed certificate of Durga is a forged and fake one and that Durga has admitted such fact. In view thereof, the learned Judge erred in law in not interfering with the direction contained in the order dated 20th May, 2025 towards disbursement of pensionary benefits in favour of Durga when such entitlement of Durga is doubtful as he

had obtained appointment on the rudiments of a fake certificate. Durga had thus mislead the authorities and earned monetary benefits to which he is not entitled to and had accordingly caused huge financial loss to the State. Such act constitutes a severe misconduct and accordingly permission was granted by the State *vide* memo dated 27th January, 2025 to take disciplinary action against Durga.

5. He further contends that the learned single Judge glossed over the fact that the initial appointment of Durga was on the basis of a fake B.Ed. degree and no finding was returned on the said issue. Such infirmity warrants interference in appeal.

6. He argues that the disciplinary authority erroneously directed disbursement of pensionary benefits in favour of Durga on a purported plea that the school authorities and the State authorities allowed him to work as an Assistant Teacher without verifying the genuinity of his certificate. The refusal of the learned single Judge to interfere with the said order dated 20th May, 2025 tantamount to grant of premium to the illegality perpetrated by Durga.

7. Mr. Bandopadhyay, learned Senior Standing Counsel appearing for the State respondents submits that Rule 5 of the 2018 Rules provides for initiation of disciplinary proceedings within a period of three years from the date the alleged misconduct becomes known to the Board and the disciplinary authority misdirected itself in

arriving at a decision not to initiate any disciplinary proceedings against Durga though the Board was permitted to take disciplinary action by the State *vide* memo dated 27th January, 2021. On the strength of such prior permission, the Board could have issued chargesheet upon seeking extension of approval from the State as provided in the first proviso of Rule 5 (3) of the 2018 Rules. In view thereof, the issue needs to be relegated to the Board for fresh consideration.

8. Ms. Bhattacharyya, learned advocate appearing for the Board submits that the direction towards disbursement of pension and retirement benefits is consequential to and inextricably bound with the decision adopted by the Board not to take any disciplinary action against Durga. A conjoint reading of the provisions of Rule 5 and Rule 9 of the 2018 Rules would clearly reveal that the order dated 20th May, 2025 does not suffer from any jurisdictional error.

9. Mr. Ghosh Chowdhury, learned advocate appearing for Durga submits that Durga upon discharging service for a long period of more than 19 years, retired on 31st December, 2020. During such service tenure no disciplinary action was taken against him. At the fag end of such service career and about a week prior to the cessation of employer-employee relationship, the appellant in his individual capacity submitted a representation to the Board alleging that Durga had earned appointment on the rudiments of a fake

certificate. The competent authority upon verification of all records granted approval of appointment to Durga way back in the year 2001 and that as such the disciplinary authority rightly observed that Durga cannot be penalized for such inaction on the part of the authorities. The order dated 20th May, 2025 has been accepted by the State authorities, as would be explicit from a memo dated 2nd September, 2025 issued by the respondent no.6 to the Headmaster requesting him to submit necessary documents for disbursement of pension and other retirement benefits of Durga immediately. A copy of the same, as placed, be kept on record.

10. He further submits that no contemporaneous complaint was lodged before the appropriate authority by the school nor any proper resolution was adopted by the Managing Committee of the said school to challenge Durga's B.Ed certificate and no independent writ petition was filed by the school authorities.

11. He further submits that his B.Ed. qualification was not valid because the college from where he obtained the qualification was not affiliated by the University at that time and for such deficiency, Durga cannot be made to suffer.

12. We have heard the learned advocates appearing for the respective parties and considered the materials on record.

13. Indisputably, prior to appointment of Durga a dispute occurred as to whether a one-man panel can be approved and Durga

can be appointed. Such dispute was adjudicated in a writ petition and in a mandamus appeal. Ultimately, Durga was granted appointment of approval *vide* memo dated 3rd April, 2001. Since then, for about 19 years no steps were taken by the school authorities or by the respondent no.6 for any further verification of the certificates of Durga which were duly verified at the time of his appointment and approval. It is only about 10 days prior to his retirement a representation was submitted by the Headmaster of the said school and that too, without being supported with an appropriate resolution of the Managing Committee of the school.

14. Records would further reveal that the order dated 20th May, 2025 passed by the disciplinary authority had not been challenged either by the school authorities or by the State authorities. No police complaint was lodged by the school authorities alleging any serious offence beyond the ordinary. Durga had rendered irreproachable service to his employer since the date of his appointment. The Managing Committee did not take any decision to challenge the order dated 20th May, 2025 and the Headmaster of the school without filing any independent writ petition, preferred the present appeal on the rudiments of his impleadment in the writ petition.

15. The argument of Mr. Bhattacharyya that the order of the Board dated 20th May, 2025 suffers from a jurisdictional error, in our opinion, has been rightly discounted by the learned single Judge

observing that the disciplinary authority decided not to proceed with disciplinary proceeding against Durga and consequently it was clarified that Durga was required to receive pensionary benefits.

16. The first proviso of Rule 5(3) of the 2018 Rules provides that no disciplinary proceeding shall be initiated after three years from the date of alleged misconduct becomes known to the Board and that such period may be extended with the approval of the State Government. In the present case, from the records it appears that the alleged misconduct came to knowledge of the Board from the representation submitted by the appellant for the first time on 17th December, 2020. The said period of three years had already expired much prior to issuance of the order dated 20th May, 2025.

17. Pension rights are constitutionally protected and cannot be arbitrarily withheld. Unexplained delay paves the way to arbitrariness and the prejudice caused to Durga is writ large on records. Receipt of the complaint about a few days prior to retirement cannot be used as a shield to defend the inaction of not proceeding earlier, if at all Durga had indulged in any misconduct.

18. In the said conspectus, we do not find any infirmity in the direction issued by the learned single Judge towards disbursement of the pensionary benefits of Durga, who had retired about five years ago on 31st December, 2020 and accordingly, we are not inclined to

interfere with the discretion exercised by the learned single Judge in favour of Durga.

19. For the reasons discussed above, the appeal and the connected application are dismissed.

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

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

(ParthaSarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)