

01.12.2025
Sl. No.4(DL)
Ct. No.7
srm

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

W.P.A. No. 24998 of 2024

Anuradha Chakraborty

Versus

The State of West Bengal & Ors.

Mr. Sujit Kumar Rath,
Mr. Sukumar Sarkar

...for the Petitioner.

Mr. Arindam Chattopadhyay,
Ms. Limika Chatterjee

...for the State.

Mr. Avishek Prasad

...DPSC, Malda.

1. By the present writ petition, the petitioner seeks for release of arrear pension and other retiral benefits of late Uttam Kumar Mishra.
2. The petitioner contends that her father late Uttam Kumar Mishra was appointed as an Assistant Primary Teacher in Bagichapur Primary School, within Kaliachak (N) Circle on 1st June, 1973 and was transferred to Durlavpur Sailesh Mishanpara Primary School. Due to her father's inability to continue in service, her father submitted an application on 23rd February, 2008 for voluntary retirement from service. However, no such action was taken with regard to such application. The father of the petitioner due to his emergent medical condition could not attend the school from 24th February, 2008 to 30th April, 2011.

Due to such long absence, Pension Payment Order was not issued in favour of the petitioner's father. An application was filed by the father of the petitioner before the District Primary School Council, Malda for regularisation of his absence for the period from 24th February, 2008 to 30th April, 2011. Since no steps were taken, the petitioner filed a writ petition being WPA No.13620 (W) of 2019. The aforesaid writ petition was disposed of with the following direction:

"Accordingly, this Court directs the Secretary of the said Council to consider the petitioner's prayer towards regularization of the period of leave for the period from 24th February, 2008 to 30th April, 2011 upon calling for all necessary records from the respondent no.7 and upon granting an opportunity of hearing to the petitioner and to take a decision, accordance with law and to communicate the same to the petitioner. The above exercise shall be completed within a period of four weeks from the date of communication of this order."

3. Pursuant to such order, the District Primary School Council (DPSC), Malda wrongly sanctioned 680 days of extra ordinary leave instead of 925 days. In compliance to order dated 8th January, 2025 upon due consideration, the DPSC has condoned the absence from 24th February, 2008 to 23rd February, 2010 totalling to 730 days. The rest period from 24th February, 2010 to 30th April, 2011 was forwarded to the Commissioner of School Education, West Bengal for his consideration. Such absence was not condoned in view of para 7(i) of G.O. No.136-Edn(B) dated 15th May, 1985, which provides for condonation of break in qualifying period and as the deceased employee superannuated on 30th April, 2011, the aforesaid period cannot be accepted as break-in-service.

4. Being aggrieved by and dissatisfied with such action of respondent authorities, the petitioner has preferred the present writ petition.
5. At the very beginning, both the learned advocates for the State as well as District Primary School Council (DPSC), Malda submit that since the deceased employee has completed qualified period of 10 years of service for getting pension, as such if the petitioner is willing to concede the order passed by the Commissioner of School Education, Government of West Bengal rejecting the condonation period of absence from 24th February, 2010 to 30th April, 2011, in such event direction may be issued upon concerned authority for taking steps by the for release of pensionary benefits as well as retiral benefits as admissible under law, which will be subjected to absence that has not been condoned by Commissioner of School Education.
6. Mr. Sujit Kumar Rath, learned Advocate for the petitioner accepts the said submissions made on behalf of the State and DPSC, Malda and seeks that a direction be issued upon concerned authorities for release of pension and other retiral benefits to be granted.
7. In view of the above, the respondent No.6, the District Inspector of Schools (PE), Malda, is directed to calculate the arrear pension and retiral benefits as admissible under law and take steps for sanctioning of

the same in favour of the petitioner after taking into consideration the tenure of service as well as the order passed by the Commissioner of School Education, West Bengal dated 28th April, 2025 within a period of four weeks from date of communication of this order. Thereafter, the respondent No.6 will submit all the necessary papers to the respondent No.2, Director Pension, Provident Fund Gratuity and Group Insurances etc. Government of West Bengal for taking further steps for issuance Pension Payment Order in favour of the deceased employee as per entitlement in accordance with law. The respondent No.2 shall act in accordance with law within a period of six weeks from date of receipt of necessary papers from the respondent No.6.

8. With the above direction, the writ petition being **WPA 24998 of 2024** stands disposed of.
9. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
10. Interim order, if any, stands vacated.
11. All connected applications, if any, stand disposed of.
12. There shall be no order as to costs.
13. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

14. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)