

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 27353 of 2024

Krishna Roy (Banerjee) & Ors.
Vs
Union of India & Ors.

For the Petitioners : Mr. Indranath Mitra,
Mr. Siddhartha Ruj.

For the UOI : Mr. Ashok Prasad (Virtual),
Mr. Ravi Ranjan Kumar.

For the Respondent Nos. 6 to 8 : Mr. Anirban Ray, Ld. G.P. sr. adv.
Ms. Shivangi Thard,
Ms. Saloni Kumar.

For the Respondent No. 10 : Md. Sarwar Jahan,
Ms. M. Mitra.

Hearing concluded on : 13.02.2025

Judgment on : 26.02.2025

SHAMPA DUTT (PAUL), J. :

1. The present writ application has been preferred praying for direction upon the respondents to issue a corrigendum for modification of the given date of effect in the memorandum dated 29.08.2024 issued in compliance to the judgment and order dated 07.12.2023 in WPA 7766 of 2023 as per notification dated 23.12.2015.
2. The petitioners herein are claiming parity as per Memo dated 23.12.2015 issued by the Paschim Banga Sarva Shiksha Mission. Persons similarly placed like the present petitioners approached the High Court in WPA 7766 of 2023.
3. **A Co-ordinate Bench of this Court vide order dated 07.12.2023 directed as follows:-**

“19. Let the scheme dated 23rd December 2015 as modified from time to time, be applied with immediate effect to each of the petitioners as they have been applied to Para Teachers.

20. In the event, however, the School Education Department wishes to frame a separate scheme for the petitioners, they may do so. It is only upon coming into force of such new scheme for the petitioners that they may be shifted from the existing scheme applicable to para teachers to the new scheme. Such independent

scheme for the petitioners shall not be any less beneficial than the scheme of 23.12.2015."

4. In compliance of the said direction of the High Court, a memorandum dated 29.08.2024 was issued which reads as follows:-

"MEMORANDUM

*The Governor has been pleased to accord approval for payment of Employer's Share towards the EPF in respect of Sahayaks/Sahayikas of SSKs and Samprasaraks/Samprasarikas including Mukhya Samprasaraks /Samprasarikas of MSKs, who opted for engagement up to the age of 60 years **w.e.f. 01/04/2024** in compliance with the order of the Hon'ble High Court in WPA 7766 of 2023 with CAN 1 of 2023 in the matter of Arup Kumar Mukherjee & Others Vs Union of India & Others.*

This is issued in concurrence with the Finance Department U.O. No.: Group P2/2024-2025/0367, dt. 29/07/2024.

Sd/-

*Additional Secretary to the Govt. of
West Bengal"*

5. Benefit was extended with effect from 01.04.2024. The petitioners' grievance is that the High Court had directed benefit to be given to the petitioner from the date in Memo dated 23.12.2015. The Memo

dated 23.12.2015 was issued by the Paschim Banga Sarva Shiksha Mission.

6. It has been noted in the order of the learned Co-ordinate Bench that **the petitioners were earlier governed under the Panchayat and Rural Development Department of the Government of West Bengal. By a notification dated 18.12.2019 the Control and Management of SSKs and MSKs came to be transferred to the School Education Department.**
7. The order of the Co-ordinate Bench is that the scheme dated 23rd December 2015 **as modified from time to time, be applied** with **immediate effect** to each of the petitioners as they have been applied to Para Teachers, as modified from time to time.
8. **It has been further directed by the Co-ordinate Bench that:-**

“in the event, however, the School Education Department wishes to frame a separate scheme for the petitioners, they may do so. It is only upon coming into force of such new scheme for the petitioners that they may be shifted from the existing scheme applicable to para teachers to the new scheme. Such independent scheme for the petitioners shall not be any less beneficial than the scheme of 23.12.2015.”
9. As such till a separate scheme is framed by the School Education Department, the petitioners shall get the benefit from the existing scheme applicable to para teachers until they are shifted to the

new scheme which shall not be less beneficial than the scheme dated 23.12.2015.

10. It thus appears that the order of the Co-ordinate Bench is clear in all respect to the extent that the petitioners herein are entitled to the benefit under the scheme dated 23rd December, 2015, with **immediate effect.**
11. There is no direction that the said benefit of the scheme granted in favour of the petitioners would take effect from a prior date that is from the date of memo (23.12.2015).
12. The memo dated 29.08.2024 gives the benefit of the scheme in memo dated 23.12.15 **with immediate effect.**
13. **The writ petition having no merit stands dismissed.**
14. All connected application, if any, stands disposed of.
15. Interim order, if any, stands vacated.
16. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

[Shampa Dutt (Paul), J.]