

W.P.A. 27595 of 2024

**Tarun Kanti Tripathi & Ors.
Vs.
The State of West Bengal & Ors.**

Ms. Santi Das
Mr. K.D. Bhowmick
...for the petitioners

Mr. Pinaki Bhattacharyya
Md. Z. Rahaman
...for the State

By instituting this writ petition three headmasters of three different higher secondary schools have approached this Court claiming 3% additional incremental benefits for manning the post of headmaster in their respective schools. After hearing the learned advocates representing the petitioners and the State-respondents it appears the facts relating to case made out by petitioner no. 1 is completely different from the issue involved in connection with the case made out by two other petitioners being petitioner nos. 2 and 3.

Therefore, the issue relating to service of the petitioner no. 1 *qua* sanction of 3% additional incremental benefit in his favour is taken into consideration.

Petitioner no. 1 retired on superannuation on 30th November, 2022 and till date of his superannuation petitioner no. 1 has drawn 3% additional incremental benefits for manning the post of headmaster in higher secondary school. However, while processing the pension case State authorities found without according necessary approval such 3% additional incremental benefits were enjoyed by the petitioner no. 1 till the date of his superannuation requiring re-fixation of pay of the petitioner no.1. On re-fixation of pay of petitioner no. 1 Rs. 2,08,396/- was found to be drawn in excess by the petitioner no. 1 which is connected to sanction of 3% additional increment. Petitioner no. 1 on demand refunded Rs. 2,08,396/- and thereafter pension case of the petitioner no. 1 was settled and on issuance of Pension Payment Order retiral dues including pension were released in favour of the petitioner no. 1.

Subsequently, petitioner no. 1 filed a writ petition being WPA 4008 of 2023 claiming payment of sum which petitioner no. 1 had to refund to meet the demand of the State authorities based on calculation of excess amount drawn by the petitioner no.1. Said writ petition was disposed of by a coordinate Bench

vide order dated 5th April, 2023 with an observation as follows:-

“It appears from record that such overdrawn amount was credited to the petitioner on account of wrong pay fixation. The petitioner was not responsible for fixation of such erroneous pay scale.”

Ultimately, the coordinate Bench directed the concerned State authorities to release sum of Rs. 2,08,396/- along with 8% interest per annum within a specified time.

In terms of the order dated 5th April, 2023 sum of Rs. 2,08,396/- and accrued interest thereon was paid to the petitioner no. 1.

In view of payment made by the State authorities in terms of order dated 5th April, 2023 it appears that benefit of 3% additional increment which was found to be wrongly paid to the petitioner no. 1 by the State authorities while processing the pension case of the petitioner was ultimately paid to the petitioner no. 1 in a different manner. Since sum of Rs. 2,08,396/- along with interest is paid claim of the petitioner no.1 towards 3% additional increment for manning the post of headmaster in higher secondary school stands redressed. Therefore, no order need be passed on this writ petition for further payment in consideration of claim of the

petitioner no. 1 towards 3% additional incremental benefits.

Hence, the writ petition in connection with petitioner no. 1 stands dismissed.

However, the issue relating to sanction of 3% additional incremental benefits as claimed by petitioner nos. 2 and 3 is completely different which ought not to be gone into in the present writ petition.

Leave is granted to petitioner nos. 2 and 3 to take steps in accordance with law including filing of writ petition afresh on self-same cause of action.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)