

S/L. 113.
April 30, 2025.
KAUSHIK.

WPA No. 29281 of 2024

Sandip Dasgupta
Vs.
The State of West Bengal and Others

Mr. Ekramul Bari
Sk. Intiaz Uddin
... for the petitioner

Md. Munwar Ali
... for the State

In terms of the order dated 17th March, 2025, a report dated 28th March, 2025 of the Joint Director (Accounts), Murshidabad enclosing a memo dated 5th January, 2012 being No. 37 – SE/ES(S)/5P – 37/2010 is filed and same is taken on record.

Petitioner was a 'Headmaster' in a government aided school and retired on superannuation on 30th November, 2024. While processing pension case of the petitioner, an objection was raised by the Joint Director (Accounts), Murshidabad on admissibility of two additional increments in respect of Ph. D. Degree based on aforesaid government memo dated 5th January, 2012 issued by Joint Secretary, School Education Department. As a result whereof, till date pension case of the petitioner has not been settled by the State Authorities.

Mr. Bari, learned advocate representing petitioner submits though objection has been raised based on government memo dated 5th January, 2012 but same is not tenable in view of the issue decided by the Coordinate Bench in the writ petition being W.P. No. 4532 (W) of 2012 (Chowdhury Moniruzzaman Vs. State of West Bengal). It is also submitted that Hon'ble Division Bench concurred with the findings of the Coordinate Bench as contained in the judgment dated 4th July, 2012 in the order dated 13th September, 2023 passed on intra-Court appeal being AST 117 of 2014 (State of West Bengal & Ors. Vs. Satyabrata Mahapatra & Ors.). Therefore, according to the petitioner, it is not open to the State Authorities while processing pension case of the petitioner to raise objection on admissibility of two additional increments which were granted to the petitioner for acquiring Ph. D. Degree w.e.f. 9th March, 2006 vide memo dated 9th February, 2012 issued by the District of Schools (S.E.), Murshidabad.

Mr. Ali, learned advocate representing State respondents has made an endeavor to defend the stand of the State Authorities, which centers around objection raised by Joint Director (Accounts), Murshidabad, which is at page 27 of the writ petition. It is submitted that in terms of

government memo dated 5th January, 2012, a cut-off date was fixed i.e. 18th August, 2005 and after such cut-off date, petitioner is not entitled to receive the incremental benefits for possessing Ph. D. Degree.

Having considered the submissions made on behalf of the parties, it appears that vide government memo dated 5th January, 2012, 18th August, 2005 was fixed as cut-off date based on Publication of the Control of Expenditure Act, 2005 in granting incremental benefits for possessing Ph. D. Degree. But such fixation of cut-off date has been negated by the Coordinate Bench in Chowdhury Moniruzzaman (supra). Order passed in Chowdhury Moniruzzaman (supra) dated 4th July, 2012 was tested before the appellate Court and the Hon'ble Division Bench while dismissing the appeal preferred by the State respondents on 13th September, 2023 in paragraph 6 made following observations:

“We record our concurrence with the reasons and the observation made by Justice Bhattacharya in WP 4532(W) of 2012 decided on 4th July, 2012 in the facts of the case.”

In view of the orders passed in Chowdhury Moniruzzaman (supra) and Satyabrata Mahapatra (supra) issue is found to be no more res integra. Therefore, at the time of processing the pension case of the petitioner, the Joint

Director (Accounts), Murshidabad ought not to have raised such objection based on government memo dated 5th January, 2012, which was set aside in Chowdhury Moniruzzaman (supra). Accordingly, objection raised by the State respondents regarding admissibility of two additional increments which was sanctioned in favour of the petitioner for possessing Ph. D. Degree is set aside. District Inspector of Schools (S.E.), Murshidabad being respondent no. 3 is directed to settle the pension case of the petitioner reckoning two incremental benefits which was sanctioned in favour of the petitioner w.e.f. 9th March, 2006 by fortnight from the date of communication of this order and forward the pension case to the Director of Pension, Provident Fund and Group Insurance being respondent no. 6 by seven days thereafter. On receipt of pension case, respondent no. 6 is directed to issue Pension Payment Order in favour of the petitioner on compliance of necessary formalities by fortnight thereafter.

State Authorities are directed to release retiral benefits including pension to the petitioner by fortnight thereafter.

Leave is granted to the learned advocate representing the petitioner to amend the cause title in course of this day and add Joint Director

(Accounts), Murshidabad as additional respondent. However, service of notice upon the additional respondent stands dispensed with since State respondents are represented by learned advocates and additional respondent has already filed a report dated 28th March, 2025.

The writ petition stands disposed of.

Urgent Xerox certified copy of this order be given to the parties expeditiously, if applied for, on usual undertakings.

(Saugata Bhattacharyya, J.)