

January 6, 2025
A 10
Ct. 18
SG

WPA 29604 of 2024

Md. Azahar Hossain
vs.
The State of West Bengal and others

Mr. R.I. Sardar
... for the petitioner

Mr. Pinaki Dhole
Mr. Avishek Prasad
... for the State

Md. Sarwar Jahan
Ms. Mousumi Mitra
Ms. Tapati Sarkar
... for the respondent No.3

Mr. Sardar Amjad Ali
Ms. Mekhla Sinha
... for the respondent No.4

Affidavit of service filed by the petitioner is taken on record.

Learned counsel representing the petitioner prays for direction upon the respondent authorities to release arrear salaries prior to joining of the petitioner on and from 14th June, 2024 as Shiksha Samprasharak on the strength of the judgment and order dated 7th January, 2022 passed by the Hon'ble Division Bench on an intra-court appeal being MAT 10 of 2021 (*Md. Azahar Hossain vs. The State of West Bengal and others*). It is further contended that the petitioner was terminated while working as Shiksha Samprasharak of MSK and thereafter

joined the post on 14th June, 2024 in terms of the order of the Hon'ble Division Bench dated 7th January, 2022. Therefore, the petitioner is entitled to receive arrear salary during the period when he was kept out of employment.

Such submission made on behalf of the petitioner is disputed by learned counsel representing the respondents on placing reliance upon the judgment and order dated 7th January, 2022 passed by the Hon'ble Division Bench.

It has been submitted that it is not a case of reinstatement of service in MSK rather the Hon'ble Division Bench directed the respondent authorities to engage the petitioner as Shiksha Samprasharak in the concerned MSK, if necessary, on creation of supernumerary post.

It is also submitted that pursuant to the order dated 7th January, 2022 the petitioner joined as Shiksha Samprasharak on 14th June, 2024 and worked till 31st December, 2024 being the date of his superannuation.

Having considered the respective submissions made by the parties and taking note of the observations made by the Hon'ble Division Bench in the order dated 7th January, 2022, this Court finds that the petitioner joined the post on 14th June, 2024 in terms of the order dated 7th January, 2022 passed by the Hon'ble Division Bench and worked upto 31st December, 2024 and thereafter superannuated.

On perusal of the order of the Hon'ble Division Bench dated 7th January, 2022 it appears that the Hon'ble Division Bench did not permit the petitioner to be reinstated as Shiksha Samprasharak in the MSK rather he was permitted to be engaged afresh. It is also observed by the Hon'ble Division Bench that if there was no existing vacancy, the petitioner to be accommodated on creation of supernumerary post which goes to show that the petitioner's joining with effect from 14th June, 2024 was not in the nature of reinstatement on cancellation of termination order. Therefore, no right accrues in favour of the petitioner to claim the benefit of arrear salary prior to his engagement as Shiksha Samprasharak with effect from 14th June, 2024. Moreover, the Hon'ble Division Bench in the order dated 7th January, 2022 did not direct the respondent authorities to release arrear dues.

Hence, the writ petition is dismissed.

There shall be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Saugata Bhattacharyya, J.)