

W.P.A. 28926 OF 2023

**Smt. Ratna Saha
Vs.
The State of West Bengal & Others**

Mr. Lakshmi Kanta Pal, Adv.
Mr. Bandhu Brata Bhula, Adv.

...for the Petitioner

Mr. Gourav Das, Adv.
Ms. Rajyashree Mukherjee, Adv.

...for the State

Matter is heard in presence of learned advocates representing the petitioner and the State respondents.

By instituting this writ petition, petitioner has prayed for release of arrear salary for the period from 1st May, 2002 till 30th September, 2014 being the date of retirement of the petitioner by treating her as Headmistress.

During course of hearing attention of this Court has been drawn to a judgment and order of the Hon'ble Division Bench dated 14th January, 2021 passed on an *intra-court* appeal being FMA 1020 of 2012 (*Smt. Ratna Saha vs. State of West Bengal & Ors.*) wherein in paragraph 22 following observation was made –

“To subserve the interest of justice, the order of the learned Single Judge is set aside and the appeal is allowed directing the respondents to pay the monthly pension of the appellant treating her to be appointed as the Headmistress of the school on May 01, 2002,

together with arrear pension within a period of eight weeks from date.”

The Hon’ble Division Bench directed the respondents only to pay monthly pension and arrear pension upon treating the appellant as Headmistress of the school in question on and from 1st May, 2002. In the judgment dated 14th January, 2021 no direction was given to release arrear salary of the present petitioner for the period from 1st May, 2002 till 30th September, 2014.

A quietus was put to the issue by virtue of the judgment of the Hon’ble Division Bench dated 14th January, 2021. It is not demonstrated before this Court that prayer for release of arrear salary for the aforesaid period made before the Hon’ble Court in any earlier round of litigation though it was open to the petitioner to agitate the issue. After implementation of the directions as contained in the judgment of the Hon’ble Division Bench dated 14th January, 2021, it is not open to the petitioner to claim arrear salary for the aforesaid period upon treating her as Headmistress, since same is barred by constructive *res judicata*.

Hence, writ petition stands dismissed.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)