

Court No. 2
(1490)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

09.04.2025
(JPD 20)

WPA 612 of 2025

(S. Banerjee)

Jayati Bhattacharjee
Vs.
The State of West Bengal & Ors.

Mr. Ajoy Kumar Singhanian
Ms. Madhurima Roy

... for the petitioner

Mr. Hirak Barman
Mr. Bikash Singha

... for the State

Mr. Sourav Ganguly
Mr. Gopal Roy
Ms. Rishita Chakraborty

... for the respondent no. 4

The petitioner joined the Shishu Mahal Junior Basic School, Jalpaiguri as a teaching staff on September 1, 1978. The service of the petitioner was approved with effect from September 1, 1978 by the Secretary, District Primary School Council, Jalpaiguri. Petitioner retired from service on August 31, 2016. The Pension Payment Order ('PPO', for short) was issued on the basis of pay fixation of the petitioner with effect from January 1, 1988 on the basis of the memo being no. 1302 Ac/P dated November 24, 2017.

Mr. Singhanian, learned advocate appearing for the petitioner submits that the last basic pay of the

petitioner was Rs. 18,000/- calculated on the basis of the pay scale of the petitioner with effect from September 1, 1978 but the last basic pay of the petitioner was recasted at Rs. 16,390/- as on August 31, 2016. He further submits that the respondent authorities could not have issued the PPO on the basis of the memo dated November 24, 2017 as the same was set aside by a coordinate Bench in WPA 342 of 2019 (*Subhra Som –Vs.- The State of West Bengal & Ors.*), order passed on August 29, 2019, which was subsequently affirmed by the Hon'ble Division Bench. He, therefore, submits that the pay of the petitioner for the purpose of calculating the pensionary benefit ought to have been considered on the basis of his pay scale with effect from the date of joining of the petitioner, i.e., with effect from September 1, 1978.

Learned advocate for the State files the report of the District Inspector of Schools (PE), Jalpaiguri dated March 24, 2025.

From the said report it appears that pensionary benefit to one of the retired staff of the said school, namely Jaya Dasgupta, was calculated with effect from the date of her joining the school as per the order of the Hon'ble High Court at Calcutta, Circuit Bench at Jalpaiguri.

The learned Advocate for the State submits that the pensionary benefits in the case of Jaya Dasgupta had to be calculated pursuant to the order passed by the Hon'ble High Court with effect from the date of her joining the service.

Heard the learned advocates for the parties and perused the materials placed.

It appears from the memo dated November 24, 2017 that the Deputy Director of School Education, West Bengal clarified that the teaching and non-teaching staff of Shishu Mahal KG (Pre-basic Nursery) School are entitled to get pay fixation benefit with effect from January 1, 1988.

One Subhra Som, who was a teacher of the said school, filed a writ petition being WPA 342 of 2019 and challenged the action of the authorities on the ground that though she was appointed as an Assistant Teacher in the primary school on August 3, 1981, yet the approval was given with effect from January 1, 1988.

The coordinate Bench in *Subhra Som (supra)* noted the decision of the Hon'ble Supreme Court reported at AIR 2017 Supreme Court 4072(*State of Punjab & Ors. –Vs.- Senior Vocational Staff masters Association & Ors.*) and observed that since three other teachers, on a equal footing with Subhra Som,

who had retired in the meantime, were given all benefits with effect from the date of their joining, it was held that the petitioner was also entitled to disbursement of all benefits taking the pay scale to be effective from the date of her joining the service.

The District Inspector of Schools (PE), Jalpaiguri carried the matter in appeal being MAT 55 of 2019 and the Hon'ble Division Bench by an order dated March 11, 2020 disposed of the said appeal without interfering with the order dated August 29, 2019 passed by the coordinate Bench.

Petitioner stands on equal footing with that of Subhra Som. In view thereof, this Court holds that the retiral and other benefits of the petitioner has to be calculated by taking the scale to be effective from the date of her joining the service from September 1, 1978.

It is not in dispute that the petitioner joined the service on September 1, 1978 and her appointment was also approved with effect from the said date. The only dispute is that the PPO was issued by taking into account of the revised last basic pay of the petitioner as on August 31, 2016 as recasted on the basis of pay fixation with effect from January 1, 1988 instead of September 1, 1978. It is also not in dispute that the pay of the petitioner was

also recasted by taking into account the pay scale of the petitioner with effect from January 1, 1988.

This Court has already held that the petitioner is entitled to pensionary benefit on the basis of the pay scale effective from the date of her joining the service, i.e., from September 1, 1978. Accordingly, recasting of last basic pay of the petitioner as on the date of retirement by treating the pay fixation benefit to be effective from January 1, 1988 is also set aside and quashed.

For the reasons as aforesaid, this Court is inclined to grant relief in favour of the petitioner. The concerned respondent authorities are directed to recast the last basic pay of the petitioner by considering the pay scale to be effective with effect from September 1, 1978, i.e., the date of her joining and to disburse all benefits to the petitioner by taking the pay scale of the petitioner to be effective with effect from her date of joining the service, i.e., from September 1, 1978.

The respondents are directed to take all consequential steps in terms of this order by issuing a revised Pension Payment Order within six weeks from the date of receipt of a server copy of this order. All arrear benefits which may accrue to the petitioner pursuant to the issuance of the revised

Pension Payment Order be released in favour of the petitioner as expeditiously as possible but positively within a period of four weeks from the date of issuance of the Revised Pension Payment Order in terms of this order.

With the above observations and direction, WPA 612 of 2025 stands disposed of without, however, any order as to costs.

(Hiranmay Bhattacharyya, J.)