

**IN THE CIRCUIT BENCH CALCUTTA HIGH COURT
AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 1466 of 2025

Dipak Ghosh

Vs.

The State of West Bengal & Ors.

For the petitioner : Mr. Osman Gani Mallick, Adv.
Mr. Nabankur Paul, Adv.
Ms. Sutapa Sen Paul, Adv.

For the State respondent : Mr. Pretom Das, Adv.
Mr. Sandip Guha Roy, Adv.

For the School Service Commission: Dr. Sutanu Kumar Patra, Adv.
Ms. Supriya Dubey, Adv.

Heard on : 08.07.2025

Order on : 08.07.2025

Om Narayan Rai, J.

1. Affidavit-of-service filed by the learned advocate on behalf of the petitioner be taken on record.
2. The petitioner is aggrieved by the non consideration of the petitioner's request to rectify the Option date entered/filled up in the option form

pertaining to the option exercised by the petitioner to switch over to the revised scale of pay under the Revision of Pay and Allowances Rule 2019 (hereafter referred "ROPA, 2019").

3. The petitioner is an Assistant Teacher in Kukurjan High School (H.S.). He was so appointed upon being duly recommended therefor by the West Bengal Regional School Service Commission, Northern Region on July 22, 1999.
4. The petitioner's appointment in the said school was approved by the concerned District Inspector of School by a letter dated September 16, 1999. Upon the promulgation of ROPA, 2019, teachers were given option to switch over to revised scale of pay under ROPA, 2019. Such option was to be exercised online through the aegis of the Headmaster of the relevant School by using the online IOSMS portal. No individual employee could exercise such option by himself or herself.
5. The petitioner exercised the option in terms of ROPA, 2019 through the Headmaster of School using the IOSMS portal on January 27, 2020. However, while exercising such option a mistake was committed by the office of the Headmaster of the said School and the date with effect from which the petitioner was deemed to have exercised such option was mentioned as "01.01.2016 instead of "01.11.2017".
6. It is the petitioner's case that the petitioner could not have opted for ROPA 2019 with effect from 01.01.2016 inasmuch as the petitioner became eligible for higher pay benefits upon completion of 18 years of service and

such completion happened only on August 12, 2017 and not before that date.

7. In support of his such contention, the petitioner has annexed a document evincing pay fixation of the petitioner upon completion of 18 years of service (annexure P-3 at page 21 of writ petition). The same reveals that the petitioner had completed 18 years of service on August 13, 2017 and that the petitioner became eligible to avail the benefit of higher scale of pay from August 13, 2017 i.e. the date of completion of 18 years service.
8. The petitioner noticed such mistake and acted promptly to bring the same to the notice of the Headmaster of the School within 24 hours of the date of filling up of the said option form. Such fact is evidenced by a letter dated January 28, 2020 written by the petitioner to the Headmaster as well as the Commissioner of School Education (Pages 30 & 34 of the writ petition).
9. Such fact of a mistake having been committed at the end of the Headmaster was also acknowledged by the Headmaster by a letter dated February 18, 2020 written by the said Headmaster of the said School to the Commissioner of School Education (page 33 of the writ petition) and a letter dated February 24, 2020 written by the said Headmaster to the District Inspector of Schools (page 32 of the writ petition).
10. Despite the aforesaid letters having been written by the petitioner as well as the Headmaster no action has been taken by the respondents. Feeling aggrieved thereby the petitioner has approached this Court by filing the instant writ petition.

11. Learned advocate appearing for the petitioner invites the attention of this Court to a letter dated August 16, 2020 issued by the District Inspector of Schools, Bankura whereby the District Inspector of Schools had allowed the Headmasters of all the High Schools, Junior High Schools, Secondary High Schools and Madrasas under the control of his office to rectify mistakes that had cropped up in filling up forms for pay fixation under ROPA 2019.
12. Learned Advocate appearing for the petitioner also invites the attention of this Court to a Memo dated December 4, 2006 (Annexure p-9 at page 42 of the writ petition) to substantiate his submission that option submitted once could be changed subsequently.
13. Learned advocate appearing for the respondent State authorities hands up a copy of instructions forwarded to him by the District Inspector of School and submits that in terms of Rule 6(4) of ROPA 2019, option exercised once would be final and no further change could be effected thereto.
14. Having heard the learned advocates appearing for the respective parties and having considered the material on record, this Court is of the view that the petitioner ought to have been allowed an opportunity to rectify the defect that was there in the option that the petitioner had exercised.
15. It is evident from the narration of facts hereinabove that the petitioner completed 18 years of service on August 13, 2017 and that upon such completion of 18 years of service, the petitioner became entitled to higher pay benefits. Such being the factual situation insertion of the date "01.01.2016" for which precedes the date on which the petitioner completed his 18 years service and became entitled to higher pay, appears to be an

obvious mistake. In case the petitioner exercised option under ROPA 2019 from a date subsequent to the date on which he completed 18 years of service, he would be entitled to revision of pay under ROPA 2019 based on the higher pay that he was receiving upon completion of 18 years of service. In the reverse case i.e. if the option was exercised from a date anterior to the date when the petitioner completed 18 years of service, his revised pay would obviously be lesser under ROPA 2019. No person of ordinary prudence would voluntarily forgo a benefit which is otherwise available to him under law. The petitioner therefore could not have been expected to have filled up or inserted the date of exercise of option as "01.01.2016" in the option form.

16. The fact that such insertion of date is the result of a mistake would be evident from the several letters written by the petitioner as well as the Headmaster of the relevant School to the Commissioner of School Education.
17. Reliance placed on Rule 6(4) of ROPA 2019 by the District Inspector of School (S.E.), Jalpaiguri in order to negate the petitioner's request for rectification of the date in option form appears to be utterly misplaced.
18. Rectification of a defect while exercising an option would not necessarily mean change of option. While it is true that a rectification may lead to a change but the expression "change" employed in ROPA 2019 in the considered view of this Court, would not include rectification or correction. A mistake or an error that has crept in inadvertently or accidentally would not amount to "change" within the meaning of Rule 6(4) of ROPA 2019. If such

had been the intent that even an inadvertent mistake or error would also not be permitted to be corrected it would have wreaked havoc. In the opinion of this Court, if a mistake has genuinely been committed and there is no mischief intended or no mal-intent involved, rectification should be permitted, subject of course to the applicant or the optee acting promptly to get the mistake corrected.

19. In fact issuance of the Memorandum dated June 16, 2020 by the District Inspector of Schools, Bankura thereby allowing Headmasters of all schools under the jurisdiction of the said District Inspector of Schools to rectify the option exercised by the teachers to switch over to revised pay under ROPA 2019 also indicates that rectification is permissible while on this it is also recorded that the Memo dated December 4, 2006 relating to change of option relied on by the petitioner may not be relevant for the present purpose inasmuch as the same does not appear to be related to ROPA 2019. Be that as it may its applicability to the facts of this case is now irrelevant for the present case in view of the independent opinion of this Court expressed above.

20. It is settled law that nobody should be punished for a fault not committed by such person. In this case when it is evident that the petitioner had no personal role to play in filling up the option form and the form was filled up in the office of the Headmasters and above all when the Headmaster has owned up the mistake committed at his end, then in such case, the petitioner should not be penalised by depriving him of the benefits that he is entitled to.

21. In view of the aforesaid, this writ petition is disposed of by directing the respondent no. 3 to allow the petitioner to rectify the date in the option exercised by the petitioner under ROPA 2019 and change the date from "01.01.2016" to "01.11.2017" forthwith.
22. With the above observations, WPA 1466 of 2025 stands disposed of. There shall, however, be no order as to costs.
23. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

[Om Narayan Rai, J.]