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FMA 97 of 2026
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IA No.: CAN 1 of 2026
**The Chairman, District Primary School
Council, South 24-Parganas & Another**
- Versus -
Binoy Kumar Pradhan & Others

Mr. Bhaskar Prasad Vaisya,
Mr. Ranjan Saha
... for the Appellants.
Mr. Syed Shamsul Arefin
... for the Writ Petitioner/
Respondent no.1.
Mr. Swapan Datta,
Mr. Dipankar Das Gupta
... for the State/Respondents.

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred by the District Primary School Council (P.E.), South 24-Parganas [hereinafter referred to as the said Council] and its functionary, being the Chairman of the said Council challenging an order dated 27th June, 2024 passed by the learned single Judge in the writ petition, being WPA 14418 of 2022. The said writ petition was preferred primarily praying for issuance of necessary directions upon the respondents therein to pay the arrear salary along with interest. Such claim of the writ petitioner/respondent no.1, namely, Binoy Kumar Pradhan (in short, Binoy) was refused by the appellant no.1 by a memo dated 6th June, 2022. Upon contested

hearing the writ petition was disposed of directing the appellant no.1 and the respondent no.4 herein to pay the salary pertaining to the period from June, 2017 to July, 2019 to Binoy.

Mr. Saha, learned advocate appearing for the appellants submits that Binoy was issued a surplus transfer order *vide* memo dated 2nd June, 2016 from Tetulberia Niharkana Free Primary School (in short, the first school) to Natun Diyara Free Primary School (in short, the second school). Thereafter a release order was also issued by the competent authority on 28th March, 2017 but the same was not complied with by Binoy. In view thereof, Binoy was not entitled to receive any salary pertaining to the period from June, 2017 to July, 2019, moreso when, the said transfer order was not interfered with in the previous round of litigation initiated by Binoy.

He contends that Binoy is claiming his salary for the period from June, 2017 to July, 2019 alleging that he had continued to work in the first school during the said period without producing any document in support of such contention though from the original attendance register of the first school it would be evident that the issuance of release order was within the knowledge of Binoy. Such arguments, as advanced, were glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference of this

Court since the directions issued would grant premium to the illegalities practiced by Binoy.

Mr. Arefin, learned advocate appearing for Binoy, however, denies and disputes such contention of Mr. Saha and submits that there is no doubt that Binoy rendered service in the first school during the period from June, 2017 to July, 2019, as would be explicit from the memo dated 14th February, 2020 issued by the respondent no.4 herein. Having thus extracted service, his salary pertaining to the said period could not have been withheld, moreso when, no disciplinary steps were also taken against Binoy for alleged non-compliance of the first order of transfer.

He further submits that Binoy's first writ petition challenging the first transfer order dated 2nd June, 2016 was disposed of with a direction upon the respondent no.2 herein to consider the representation submitted and pursuant to such direction a fresh transfer order was issued on 5th July, 2019 transferring Binoy to Mahamayapur F. P. School [in short, the third school] and as such the learned single Judge rightly observed that the first transfer order had become infructuous. In the said conspectus, the learned single Judge rightly directed the respondents to pay Benoy's salary for the said period.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that Binoy preferred a writ petition, being WPA 346 of 2017 alleging that the first order of transfer dated 2nd June, 2016 was not sustainable as he was not a surplus teacher in the first school. The said writ petition was disposed of by an order dated 7th September, 2018 directing Binoy to submit a representation and the District Inspector of Schools (PE), South 24-Parganas (hereinafter referred to as the said DI) was directed to consider the same. Pursuant to such direction Binoy submitted a representation and upon considering the same the said DI issued a memo dated 17th June, 2019 proposing resumption of salary of Binoy and also for transferring him to any other school under Sonarpur Circle. Acting on the basis of the said memo dated 17th June, 2019, the appellant no.1 passed an order on 5th July, 2019 transferring Binoy to the third school. Subsequent thereto, the then Chairman of the Council *vide* memo dated 22nd July, 2020 directed the respondent no.4 herein to check the records of the first school as regards Binoy's attendance in the said school pertaining to the period from June, 2017 to July, 2019. Pursuant thereto, the said the respondent no.4 submitted a report *vide* memo dated 14th February, 2020 stating *inter alia*

that Binoy continued to serve during the said period in the first school.

Neither in the memo dated 17th June, 2019 issued by the said DI nor in the memo dated 5th July, 2019 issued by the then Chairman of the Council, there is any observation that Binoy did not discharge his services during the period from June, 2017 to July, 2019. Admittedly, no disciplinary proceeding was also initiated against Binoy. In the said conspectus, the learned single Judge exercised discretion in favour of Binoy and directed disbursement of his salary for the period from June, 2017 to July, 2019 and we do not find any infirmity in the said order. The factual issues were duly considered and specific finding was arrived at by the learned single Judge and as such, no interference is called for in the present appeal.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)