

06.05.2026
Sl. No.30
Ct. No.14
ss

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

W.P.A. No. 2728 of 2026

**Md. Azahar Hossain
Versus
The State of West Bengal & Ors.**

Mr. Rafikul Islam Sardar

...for the petitioner

Md. Sarwar Jahan
Ms. Mousumi Mitra
Ms. Tapati Sarkar
Ms. Shalini Sen
Ms. Sahina Parvin

... for the Mission Director

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. On the prayer of the learned Advocate for the petitioner leave is granted to correct the nomenclature of respondent no.3 in the cause-title of the writ petition.
3. By the present writ petition the petitioner seeks for setting aside the Memo No.20/7-1(Pt-XI) Terminal benefit/Admin/PBRSSM/2024 dated 09.01.2025 issued by the Mission Director, Paschim Banga Rajya Sishu Shiksha Mission (*in short*, 'PBRSSM') rejecting the terminal benefit to the petitioner and also seek direction upon the authority concerned to provide terminal benefit to the petitioner.
4. The petitioner contends that he was appointed as *Shiksha Samprasarak* in the year 2003. The petitioner was also appointed as Samprasarak-in-Charge. On

27th October, 2014 the Executive Officer of *Domjur Panchayat Samity* exempted the petitioner from discharging his duties as Samprasarak-in-Charge with a further direction to hand over the charge from a specific date. Challenging such order the petitioner filed a writ petition being WP No.29431(W) of 2014 and the same was disposed of *vide* order dated 21st November, 2014 setting aside the order under challenge and observing as follows.

“ I am afraid the justification for issuance of a non-speaking order is hardly tenable. If the petitioner has acted in such a manner which warrants any disciplinary action to be taken against him, the authority should proceed in that direction in accordance with law. However, asking the petitioner to step down from the post of Samprasarak-in-charge without citing any reason is in breach of trust of rules of natural justice.

.....

The petitioner shall continue to function as Samprasarak-in-charge till such time further orders are passed by the appropriate authority.

5. On 23rd July, 2015 the petitioner was terminated by the Additional Executive Officer, Howrah Zilla Parishad. Such order of termination was challenged by filing a writ petition being WP No.24182(W) of 2015 which was dismissed *vide* judgement and order dated 21st December, 2018. The petitioner filed an application seeking for appropriate order being CAN 1955 of 2019 which was also dismissed by giving liberty to the petitioner to challenge the same, if so advised. Another writ petition being WP No.10523(W) of 2019 was filed by the petitioner seeking direction to be appointed as *Samprasarak* of Munshidanga

Fatema Khatun Smriti MSK, which was also dismissed *vide* order dated 16th March, 2020. Challenging such order of dismissal, an appeal being MAT 10 of 2021 was preferred which was allowed *vide* judgement and order dated 7th January, 2022 and the order of the learned Single Judge was set aside. Competent authority was directed to engage the petitioner as *Shiksha Samprasarak* in the MSK where he was engaged or by creating supernumerary post in the MSK. Subsequent thereto a review petition being RVW 27 of 2022 was filed in connection with the order passed in the aforesaid Appeal, which was dismissed *vide* judgement and order dated 22nd April, 2024.

6. Pursuant to order of the Appeal Court, the petitioner was given fresh appointment as *Samprasarak* in the MSK on 10th June, 2024 and was directed to join within seven days of receipt of the order. The petitioner joined on 14th June, 2024. The petitioner attained the age of superannuation, i.e., 65 years on 31st December, 2024.
7. The petitioner filed another writ petition being WPA 29604 of 2024 for release of arrear salaries prior to joining of the petitioner on and from 14th June, 2024 as *Shikha Samprasarak*. The said writ petition was dismissed with the following observations :

“ 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."

8. Challenging the order of the learned Single Bench an appeal was preferred being FMA 215 of 2025. The said appeal was dismissed on 18th March, 2025.
9. By the impugned order the grant of terminal benefits have been rejected. Being aggrieved by such order the petitioner has preferred the present writ petition.
10. Mr. Rafikul Islam Sardar, learned Advocate for the petitioner submits that the petitioner joined on 29th June, 2003 and retired from service on 31st December, 2024. Prior to his termination the petitioner completed continuous 10 years of service and as such, he is entitled to terminal benefits in terms of memo No.1219-F(H)/FA/N/2M/18/24(NB) dated 7th March, 2024. However, without any justifiable reason the petitioner has been deprived of such terminal benefits *vide* order dated 9th January, 2025 of the concerned authority. He seeks for setting aside of the impugned order.
11. On the contrary, Md. Sarwar Jahan, learned Advocate for respondent no.3-PBRSSM submits that the petitioner was terminated on 23rd July, 2015. The petitioner filed a writ petition challenging such order

of termination. Though by order of this Hon'ble Court the petitioner was given fresh appointment, however, the petitioner was never reinstated in service by the Hon'ble Court. Therefore, the petitioner cannot claim to be in continuous service of 10 years since his joining in the year 2003. The fresh appointment was given to the petitioner on 14th June, 2024. The petitioner retired on 31st December, 2024 meaning thereby that he completed only six months of his continuous service and as such he is not entitled to get the terminal benefit.

12. Upon hearing the learned Advocates for the respective parties, the only issue which falls for consideration is whether the impugned order passed by the authority concerned is sustainable in law and whether the petitioner is entitled to terminal benefit as per government notification or not.
13. From the observation of the learned Single Judge in WPA 29604 of 2024 it is manifest that the Hon'ble Division Bench in MAT 10 of 2021 did not permit the petitioner to be reinstated as *Shiksha Samprasharak* in the MSK rather he was permitted to be engaged afresh. Such order of the learned Single Judge has been affirmed in the appeal being FMA 215 of 2025. Admittedly, the petitioner has joined upon fresh engagement on 14th June, 2024. The petitioner retired on 31st December 2024. Therefore, his tenure of service after fresh engagement is of only six months. There cannot be any quarrel that in order to be

entitled to terminal benefit one has to serve atleast 10 years continuously till retirement. Since the petitioner has not completed the minimum period required, he is not entitled to the terminal benefits.

14. In view of the above discussion, this Court finds that there is no infirmity in the impugned order dated 9th January, 2025 of respondent no.3-PBRSSM.
15. Accordingly, the writ petition being **WPA 2728 of 2026** stands dismissed.
16. Interim order, if any, stands vacated.
17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)