

27.04.2026
Sl. No.10
Ct. No.14
SS

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

W.P.A. No. 11170 of 2024

**Tarun Kumar Singha Roy
Versus
The State of West Bengal & Ors.**

Mr. Goutam Dey
Mr. Abhijit Mondal
Ms. Ankita Ghosh

...for the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee

.... for the State

Mr. Arjun Roy Mukherjee
Mr. S. Mukherjee
Mr. J. Medhi

... for the added respondent-PBSSM

1. By the present writ petition the petitioner seeks direction upon the respondent authorities to allow the petitioner to join his duty and also to release the salary along with arrears within a specified period of time.
2. The petitioner joined as Additional Para teacher in Paschim Ghoshpur Ramkrishna Bidyapith, Hooghly by dint of letter of engagement date 27th January, 2006 issued by the Managing Committee of the school. While serving in the school the petitioner proceeded on leave without any application and on reporting for duties after three and half months the school authorities did not allow him to join. The petitioner made a representation on 14th September, 2011. Since that representation was not considered, the petitioner filed a writ petition being WP 5929(W) of

2016. The said writ petition was disposed of on 17th November, 2016 by passing the following order :

“Accordingly, without going into the merits of the instant writ petition, this Court directs the concerned respondents to dispose of the representation dated September 14, 2011, which is annexed as Annexure-P4 to the writ petition, if the same has not decided as yet and if he is eligible for the same benefits, the same be paid provided there is no legal impediment, within a period of three months from the date of furnishing certified copy of this order after verification of the relevant documents.

In case the order is in the positive, the petitioner shall be allowed to join his duties in accordance with law.

With the aforesaid observations, the writ petition is disposed of.”

3. Pursuant thereto the District Project Officer, SSM, Hooghly, on 16th February, 2017 passed a reasoned order wherein the representation of the petitioner dated 14th September, 2011 was rejected.
4. Challenging the aforesaid order another writ petition was filed by the petitioner being WP 13916(W) of 2017. By order dated 17th July, 2018, the said writ petition was allowed quashing the impugned order of the District Project Officer, SSM, Hooghly with following directions:

“Therefore, the impugned order as in Annexure P/6 is quashed. The petitioner shall be allowed to rejoin his duties within seven days from the date of communication of this order and he shall be paid all arrears of honorarium from August, 2014 till date and he also paid his current honorarium by fifth of each succeeding month, first of which shall be paid by August 6, 2018. So far as the arrears of honorarium from July 31, 2010 the respondent authorities shall make a calculation and shall make available the calculation to the writ petitioner and if it is acceptable to the writ petitioner then the arrears of honorarium from July 23, 2010 till July, 2014

shall be paid by way of instalments along with his current honorarium.”

5. The District Project Officer, SSM, Hooghly preferred an appeal being MAT 1102 of 2018 against the order of the learned Single Judge passed on 17th July, 2018 in the aforementioned writ petition. The said appeal was disposed of on 13th March, 2019 by passing the following order :

“ For the reasons stated above, we find sufficient merit in the appeal and equally lack of it in the order impugned. The order impugned is hereby set aside. The appeal is allowed.

Considering the nature of claim made in the writ petition and the order impugned, we not only allow the appeal but dismiss the writ petition on merits.”

6. The petitioner filed Special Leave Petition before the Hon’ble Supreme Court which was dismissed on 2nd May, 2023.
7. In the present writ petition the precise contention of the petitioner is that that upon his representation dated 3rd June, 2022 it has been informed that the petitioner was absent from 23rd July, 2010 till 8th November, 2010 and the petitioner was/is present in school from 9th November, 2010 till the date. As such, the petitioner seeks for allowing him to join his duties.
8. Mr. Goutam Dey, learned Advocate appearing on behalf of the petitioner submits that in the earlier round of litigation such fact neither could be pleaded nor any document in support could be produced before this Hon’ble Court. On 16th June, 2022 the

petitioner was informed by the President and the Headmaster of the institution that the petitioner was absent from 23rd July, 2010 till 8th November, 2010 and was present in school from 9th November, 2010 till date. The name of the petitioner has also figured in the booklist for the year 2024 at page 181 of the writ petition. Thus it is clear from the aforesaid document that the petitioner is still now attached to the concerned school and therefore, the petitioner is entitled appropriate orders allowing him to join his duties and for release of his arrear salary.

9. Mr. Arjun Roy Mukherjee, learned Advocate appearing on behalf of added respondent no.7-*Paschim Banga Samagra Shiksha Mission* submits that the petitioner previously made similar prayer in the earlier writ petition being WP 13916(W) of 20178. Learned Single Judge allowed the prayer of the petitioner. The matter went up to appeal filed by District Project Officer, *Samagra Shiksha Mission* and the Hon'ble Division Bench not only allowed the appeal but also dismissed the writ petition. The petitioner preferred Special Leave Petition before the Hon'ble Supreme Court which has also been dismissed. Thus, nothing remains to be decided in the present writ petition. The prayer made in the writ is nothing but a blatant abuse of process of law. Further the petitioner did not place the documents namely, letter dated 16th June, 2022 before the Hon'ble Supreme Court when the matter was dismissed on 2nd May, 2023. Thus, as the

issue raised by the petitioner has reached its finality in the earlier round of litigation, hence he is estopped from raising the similar issue in the present writ petition. He seeks for dismissal of the writ petition.

10. Mr. Arindam Chattopadhyay, learned Advocate appearing on behalf of the State adopts the submissions advanced on behalf of respondent no.7- *Paschim Banga Samagra Shiksha Mission*.
11. Indisputably, in the earlier writ petition being WP 13916(W) of 2017 the petitioner made the following prayers :

(a) *A writ in the nature of Mandamus setting aside the impugned order dated 16.2.2017 issued by the District Project Officer, Sarva Siksha Mission, Hooghly;*

(b) *A writ in the nature of Mandamus commanding the Respondents and/or their men, agents or subordinates and each one of them to allow the petitioner to rejoin in the post of Additional Para Teacher in the Paschim Ghoshpur R.K. Vidyapith, District Hooghly;*

(c) *A writ in the nature of Certiorari directing the respondents and/or their men, agents or subordinates to transmit all relevant records pertaining to this case before the Hon'ble Court so that conscionable justice may be done after perusing the same;*

(d) *Rule NISI in terms of prayers (a) and (b) as above;*

(e) *Interim order do issue restraining the respondents and/or their men, agents and/or subordinates in office and each one of them from giving effect and further effect to the impugned order dated 16.2.2017 issued by the District Project Officer, Sarva Siksha Mission, Hooghly;*

(f) *Ad-interim order do issue commanding the Respondents and/or their men, agents or subordinates and each one of them to allow the petitioner to join in the post of Additional Para Teacher in the Paschim Ghoshpur R.K. Vidyapith, District Hooghly;*

(g) *Any such other or further order or orders, direction or directions as to Your Lordships may deem fit and proper."*

12. The learned Single Judge allowed the aforementioned writ petition and quashed the order dated 16th February, 2017 of the District Project Officer, SSM, Hooghly, by which the prayer of the petitioner to join the school was rejected, and directed for payment of arrears of honorarium in favour of the petitioner. The said order was challenged in appeal being MAT 1102 of 2018. The appeal was allowed on 13th March, 2019 dismissing the writ petition. As per the writ petitioner a challenge was made to the order passed by the Hon'ble Division Bench by preferring Special Leave Petition before the Hon'ble Supreme Court which was dismissed on 2nd May, 2023. It is found that the petitioner once again pursuing similar prayer in the instant writ petition seeking direction upon the respondent authorities to allow the petitioner to join his duty and also to release the salary and its arrears. Such being the position the prayer made in the writ petition is not at all maintainable since the issue has already been adjudicated and decided in the earlier round of litigation and has reached its finality.
13. Mr. Dey, learned Advocate for the petitioner has vociferously argued relying on the letter of communication dated 16th June, 2022 informing the petitioner that he was absent from 23rd July, 2010 till 8th November, 2010 and was present in school from 9th November, 2010. Be that as it may, though such document was within the knowledge of the petitioner but he chose not to press it before the Hon'ble

Supreme Court in the Special Leave Petition for the reasons better known to him, when as per petitioner's contention the SLP was dismissed by the Hon'ble Supreme Court on 2nd May, 2023. Therefore, the petitioner cannot again claim for joining the school on the basis of the said document.

14. In light of the aforesaid discussion, the present writ petition falls short of merit and is liable to be dismissed.
15. Accordingly, the writ petition being **WPA 11170 of 2024** 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.)