

FMA 758 of 2023
with
IA No. CAN 1 of 2024
(Sanchita Middya Vs. The State of
West Bengal & Ors.)

Mr. Partha Sarathi Bhattacharya, Sr. Adv.
Mr. Uttam Kr. Bhattacharyya
Mr. Kaustuv Mishra
... For the appellant

Mr. Tapan Kumar Mukherjee, AGP
Mr. Rajat Dutta
..... For the State respondents

Mr. Tarun Kumar Das
..... For the School Authority

The appeal is directed against the order dated 27th February, 2023 passed in the writ petition being WPA 25872 of 2022. By the said order, the learned Single Judge declined to accept the claim of the writ petitioner/appellant (hereinafter, the appellant) for incremental benefits for the period from 1st July, 2015 to 14th July, 2017 and dismissed the writ petition.

Briefly stated, the facts leading to the presentation of the present appeal are that the appellant joined Harasankar Garkilla Santamayi High School (hereinafter referred to as “the said school”) as an untrained Assistant Teacher of Sanskrit on 9th August, 2010. Vide an order dated 1st November, 2010, the District Inspector of Schools (SE) (in short, “DI”) approved the appellant’s appointment with effect from 9th August, 2010.

As per G.O. No. 25-SE (B)/1M-107/98 dated 12th February, 1999, an untrained secondary school teacher is entitled to annual increments in the revised scale of pay, subject to the condition that

such untrained teacher will have to get himself/herself trained within five years from the date of appointment.

On 7th February, 2013, the appellant applied for permission from the school authority to pursue a two-year B.Ed. course. However, such permission was denied on the ground that two senior teachers were already undergoing similar training. Subsequently, on 5th February, 2014, the appellant made another application. Thereafter, she made a further application in 2015; however, by that time, despite the issuance of a no objection certificate, no release order was granted in favour of the appellant to enable her to take admission in the B.Ed. course.

Such inaction on the part of the school authority prompted the appellant to file a writ petition being WP 22038 (W) of 2015, which was disposed of by an order dated 8th September, 2015, directing the concerned school authority to issue a release order in favour of the appellant for attending the B.Ed. course for the session 2015–2017 within the time stipulated therein.

The appellant completed the said course on 15th July, 2017. However, as the appellant could not acquire the requisite training within five years from the date of appointment, as stipulated in the circular dated 12th February, 1999, payment of yearly increments for the period from 1st July, 2015 to 14th July, 2017 was stopped.

This event again prompted the appellant to file a writ petition being WPA 25872 of 2022, which came to be dismissed by the order impugned in the present appeal.

Mr. Bhattacharya, learned Senior Advocate appearing for the appellant, submits that the appellant had prayed before the school authority for permission to pursue the B.Ed. course well in advance,

in the year 2013, vide her letter dated 7th February, 2013. Such permission was denied on the ground that two senior teachers were already undergoing such training. He further submits that the appellant again applied for such permission in the year 2014; however, even then, no permission was granted. Ultimately, such permission was granted in the year 2015 on the basis of the application made by the appellant in that year.

He submits that the appellant cannot be held responsible for the laches on the part of the school authorities. Had such permission been granted to her, she could have completed the course within the stipulated period of five years from the date of her appointment. Therefore, the withholding of yearly increments from 1st July, 2015 to 14th July, 2017 is unsustainable in the eyes of law.

He further submits that such relief was denied on the basis of an erroneous statement made by the school authority before the concerned DI to the effect that no application had been made by the appellant in 2014. He also submits that this issue, as urged by the appellant before the Court below, was overlooked, and no finding was recorded thereon. He contends that such infirmity warrants interference with the order under challenge in this appeal.

He further submits that she did not find any circular which could have justified the school authority in denying such permission to the appellant in 2013 on the ground that two other senior teachers were undergoing the B.Ed. course at that time.

In rebuttal, Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents, submits that in terms of the Circular dated 12th February, 1999, an untrained teacher is required to complete the prescribed training within five years from

the date of appointment in order to avail the benefit of yearly increments. In the present case, the appellant failed to comply with this condition and, accordingly, the payment of yearly increments for the period from 1st July, 2015 to 14th July, 2017 was rightly stopped. He further submits that the appellant has been granted the incremental benefit with effect from 15th July, 2017, upon completion of the B.Ed. course.

Mr. Das, learned advocate appearing for the school authorities, submits that the appellant was the only teacher of Sanskrit at that time, and the two other senior teachers were undergoing the B.Ed. course. He submits that had such permission been granted to another teacher, the school authority could have faced inconvenience in running the school smoothly. He further submits that the appellant availed maternity leave for 250 days in 2014.

He submits that, in view of the aforesaid aspects, such permission was denied to her in those years.

He further submits that the appellant enjoyed the yearly increments from the date of her appointment; however, due to non-completion of the B.Ed. course within the stipulated time, payment of yearly increments was stopped for the period from 1st July, 2015 to 14th July, 2017. Immediately upon completion of the course, such benefits were extended to the appellant with effect from 15th July, 2017.

Heard the learned advocate appearing for the respective parties. Perused the materials on record.

Indisputably, the appellant joined the school as an untrained Assistant Teacher of Sanskrit. Therefore, in terms of the Circular dated 12th February, 1999, the appellant was required to acquire the

requisite training within five years from the date of appointment, that is, by 9th August, 2010. However, the appellant could not complete the training within the stipulated period and claimed that she had applied for permission to undergo the B.Ed. course on 7th February, 2013; however, such permission was denied on the ground that two senior teachers were already undergoing training at that time. The decision of the school authority, taken in the meeting of the Managing Committee of the said school on 2nd March, 2013, to deny such permission has not been challenged by the appellant. Instead, the appellant has challenged the stoppage of payment of increments from 1st July, 2015 to 14th July, 2017. Since the appellant failed to complete the B.Ed. course within the prescribed time, payment of her annual increments was stopped as a consequential measure.

Having noted these facts, the learned Court below declined to exercise its discretion in favour of the appellant.

We do not find any infirmity or perversity in the order impugned. Accordingly, the appeal and its connected application are dismissed. However, there shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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