

02
29.01.2026
Court No.11
KCP

MAT 1277 of 2025
+
IA No.: CAN 1 of 2025

**The Director of Pension, Provident Fund and
Group Insurance, Govt. of W. B. & Others**
- *Versus* - **q**
Malay Kumar Saha & Others

Mr. Bhaskar Prasad Vaisya, Ld. A.G.P.
Mr. Nilay Baran Mandal.
... for the Appellants.

Mr. Swapan Kumar Datta, Ld. G.P.
Mr. Nilotpal Chatterjee,
Mr. A. Lal Chatterjee.
... for the State/Respondents.

Md. Sarwar Jahan,
Ms. Pritikana Gantait,
Mr. Sudipta Maiti,
Ms. Shalini Sen,
Ms. Sahina Parvin
... for the Respondent No.1

The present appeal has been preferred by the functionaries of the Directorate of Pension, Provident Fund and Group Insurance (in short, DPPG), challenging a judgment dated 25th March, 2025 passed by the learned single Judge in the writ petition being WPA 15392 of 2021 in which a memo dated 3rd September, 2021 issued by the appellant no.2 was under challenge. The learned single Judge upon contested hearing was pleased to set aside the impugned memo dated 3rd September, 2021 and the respondents were directed to implement the order passed by the District Inspector of Schools, (Secondary Education), Paschim Medinipur (in

short, the said DI) *vide* memo dated 7th April, 2021 and to disburse the pensionary benefits in terms of the last drawn salary of the petitioner, namely, Malay Kumar Saha (in short, Malay).

At the inception, it needs to be recorded that the pension sanctioning authority being the said DI has not assailed the order passed by the learned single Judge before this Court. The appeal has been filed by the functionaries of DPPG who cannot sit in appeal over such decision and as such, we do not find any infirmity in the observation made by the learned single Judge that that the said DI being the pension sanctioning authority has determined the pay and pension and the DPPG being the disbursing authority has no scope to interfere with such decision.

Mr. Vaisya, learned Additional Government Pleader appearing for the appellants submits that admittedly, Malay entered into service on 1st October, 1981 in a pass graduate post in normal section and that as such, he cannot be treated to be an '*existing*' teacher in terms of the Revision of Pay and Allowances Rules, 1981 (in short, 1981 ROPA) as on from 1st April, 1981. In view thereof, Malay's scale of pay was erroneously fixed in honours graduate scale though he was appointed in a pass graduate post and he enjoyed the benefits of such

erroneous pay fixation. Such illegality was pointed out by the appellant no.2 at the time of verification of pension papers *vide* memo dated 3rd September, 2021.

Mr. Vaisya further submits that on the basis of such erroneous fixation of scale of pay, Malay has enjoyed honours graduate scale to which he was not entitled to for a period of five years from the date of joining and as such, the appellant no.2 rightly directed for recovery of the overdrawn amount. Such arguments, as urged, were glossed over by the learned single Judge.

Mr. Jahan, learned advocate appearing for Malay submits that the judgment impugned has not caused any prejudice to the appellants herein. The said appellants are mere computing authorities. Furthermore, the said DI being the pension sanctioning authority had categorically directed *vide* memo order dated 7th April, 2021 that '*the pension or retiral benefit will be on admissible Basic Pay not on erroneous Basic Pay*'.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

In the memo dated 7th April, 2021 issued by the pension sanctioning authority being the DI it has been categorically stated that pension will be on

admissible basic pay and not on erroneous basic pay. In view of such observation, we do not find any infirmity in the judgment of the learned single Judge directing implementation of the order issued *vide* memo order dated 7th April, 2021 and for issuance of appropriate pension payment order in terms of the last drawn salary of Malay.

We have been further informed that the overdrawn amount calculated to be of ₹14,188,55/- which was recovered had already been refunded to Malay during pendency of the present appeal and that as such, the judgment impugned in the present appeal has been partly complied with.

In the said conspectus and as the learned single Judge has rightly directed implementation of the order of the pension sanctioning authority and negated the observations of the appellant no.2, we do not find any reason to interfere with the judgment impugned.

Accordingly, the appeal and the connected application are dismissed.

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.)