

31.03.2026
Sl. No.16
Ct. No.14
gd

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

WPA/21431/2025

**Krishna Sarkar Dutta
versus
State of West Bengal & Ors**

Mr. Naren Ghosh Dostider

...for the Petitioner.

Mr. Sourav Mitra

...for the State.

1. Report filed by the State furnished by District Inspector of Schools (P.E.), Nadia dated 28th January, 2026 is taken on record.
2. By the present writ petition the petitioner seeks direction upon the respondent authorities to take necessary steps for changing the date of revision of ROPA 2019 from 1st January, 2016 to 1st August, 2019.
3. The petitioner contends that she was an Assistant Teacher of Charasarathi G.S.F. Primary School, District-Nadia and she retired from service on superannuation on 31st December, 2019. During her service tenure she exercised option under ROPA 2019 and the date of exercise of such option was mistakenly given as 1st January, 2016 instead of 1st August, 2019. After her retirement from service pension has been granted to the petitioner. As the

petitioner was getting less pay after fixation, she made a representation before the District Inspector of Schools on 19th September 2022 and thereafter she came to learn of the mistake in the date of exercise of option. Accordingly, the petitioner approached the authority concerned for correction of the option date from 1st January, 2016 to 1st August, 2019. However, that was not considered in view of sub-rule (4) of Rule 6 of Memorandum No.437-SE(P&B)/SL/5S-408/19 dated 13th December, 2019 that the option once exercised shall be final. Hence this writ petition.

4. Mr. Naren Ghosh Dostider, learned advocate appearing for the petitioner submits that the date of option i.e. 1st January, 2016 has been inadvertently given by the petitioner at the time of submission of the option. As per Rule 16 of the Memorandum dated 13th December, 2019 such requirement can be relaxed and the date of option can be corrected. He seeks for appropriate orders.
5. Mr. Sourav Mitra, learned advocate for the State submits that though Rule 16 of the Memorandum dated 13th December, 2019 provides for relaxation of the requirement but in the present case the petitioner has come up with such prayer after a considerable delay. Accordingly, the writ petition is liable to be dismissed.
6. There cannot be any manner of doubt that there is delay in raising the claim of correction in the option

date. Be that as it may, delay *per se* cannot defeat the valuable right of the petitioner. Relief may be granted to the writ petitioner in spite of such delay if it does not affect the right of third parties. **[See: Union of India versus Tarsem Singh reported in (2008) 3 SCC 648].**

7. Rule 16 of the Memorandum dated 13th December, 2019 is quoted hereunder for the sake of convenience:

“16. Relaxation of this Memorandum.– Where the Governor is satisfied that the operation of all or any of the provisions of this Memorandum causes undue hardship in any particular case, he may, by order dispense with or relax the requirements of this Memorandum to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.”

8. Sub-rule (4) of Rule 6 provides that option once exercised shall be final. On the basis of the said provisions, the authority concerned namely, Deputy Director of School Education (R/P), West Bengal has rejected the prayer of the petitioner for change in option date vide letter dated 16th April 2025 (Enclosure 5) of the report of the State respondents. Be that as it may, bearing in mind Rule 16 of the Memorandum dated 13th December, 2019, this court is of the view that such date of the option can be corrected by the authority concerned.
9. Accordingly, the order of rejection under Memo No.442-SC/P/2P/1P/2018 dated 16th April, 2025 is set aside.

10. The petitioner is granted liberty to furnish Form-I for revision of pension under ROPA 2019.
11. Respondent no.6, District of Inspector of Schools (P.E.), Nadia shall take appropriate steps for correction of the option date of the petitioner upon resubmission of Form-I for revision of pension under ROPA 2019 within a period of two months from the date of resubmission of Form-I.
12. Learned advocate for the petitioner is directed to communicate this order to the respondent no.6, District of Inspector of Schools (P.E.), Nadia for necessary action.
13. This order is made keeping in mind the peculiar circumstances. However, it is made clear that the order shall be restricted to the petitioner only and shall not act as a precedent.
14. With the aforesaid directions, the writ petition being **WPA 21431 of 2025** is disposed of.
15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
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.)