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11.12.2024
Ct. No. 18
(ARPAN)

W.P.A. 28603 of 2024

**Milan Mukhopadhyay @ Mukherjee
Vs.
The State of West Bengal & Ors.**

Mr. Ekramul Bari
Sk. Imtiaz Uddin

...for the Petitioner

Mr. Amitava Mitra
Ms. Debangana Dey Nayak

...for the State

Mr. Soumya Majumder, Sr. Adv
Mr. Uttam Kumar Mandal
Mrs. Maitree Roy

...for NTPC Limited

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

By presenting this writ petition, *inter alia*,
petitioner has questioned the observations made by the
District Inspector of Schools (S.E.), Birbhum being
respondent no.3 while processing the pension case of the
petitioner.

It is submitted by Mr. Ekramul Bari, learned
advocate representing the petitioner that petitioner was
an Assistant Teacher in NTPC High School, Malda for the
period from 7th April, 1993 to 4th July, 2002. Thereafter
petitioner has joined Dr. Sudhakrishna Junior High
School, Birbhum and subsequently joined as
Headmaster in Kedarpur B.N. High School, Birbhum.
Petitioner retired on superannuation on 31st January,
2024 and thereafter while processing the pension case of

the petitioner respondent no.3 made observations on 29th January, 2024 raising questions relating to tenure of the petitioner as an Assistant Teacher in first school, that is, NTPC High School, Malda for the purpose of computing and settling retiral benefits. Observation has been made by the respondent no.3 that said NTPC High School was financed by National Thermal Power Corporation Limited and not by the Government of West Bengal, therefore, service of the petitioner in the said school to be treated as unqualified and not to be reckoned for computing pensionary benefits.

In support of the case made out in this writ petition reliance is placed on behalf of the petitioner on approval memo dated 16th February, 1995 issued by the Secretary, West Bengal Board of Secondary Education thereby approving service of the petitioner being an Assistant Teacher along with other teaching and non-teaching staffs of NTPC High School and it is submitted that such approval accorded by the Board needs to be taken into consideration while taking decision on entitlement of the petitioner to receive retiral benefits from 7th April, 1993 being the first date of service of the petitioner in the said school. In addition thereto reliance is also placed on an order dated 12th January, 2007 passed by the Hon'ble Division Bench on an intra-court appeal being MAT No.4617 of 2005 (*Md. Mofiur Rahman v. State of West Bengal & Ors.*).

The General Manager, NTPC Limited is represented by Mr. Soumya Majumder, learned senior advocate who submits that the school is not functioning at present but at the material point of time when petitioner was working in the said school as Assistant Teacher, it was a recognized unaided institution partly financed by NTPC Limited. However, approval of appointment accorded by the concerned authority of the Board on 16th February, 1995 in favour of the petitioner along with other teaching and non-teaching staffs of the said school which is at pages 25 and 26 of the writ petition is not disputed by Mr. Majumder.

State respondents are also represented and submissions are made to defend the observations made by the respondent no.3 while settling pensionary benefits in favour of the petitioner.

On consideration of the submissions made on behalf of the parties and taking note of the relevant documents available on record, it appears that though NTPC High School was not Government aided institution but it was a recognized institution and the service of the petitioner for the period from 7th April, 1993 to 4th July, 2002 was approved by the concerned authority of the Board. Subsequently, petitioner worked in two different schools and the last school was Kedarpur B.N. High School, Birbhum where petitioner worked as Headmaster.

In order to find out whether service rendered by the petitioner in NTPC High School from 7th April, 1993 to 4th July, 2002 is to be reckoned for releasing pensionary benefits, this court finds it apt to consider two aspects, first, approval memo dated 16th February, 1995 accorded by the concerned authority of the Board in favour of the petitioner being an Assistant Teacher of the said school and it has already been decided by the Hon'ble Division Bench in the order dated 12th January, 2007 in *Md. Mofiur Rahman (supra)* that service of the appellant needs to be considered in NTPC High School for grant of benefits under Revision of Pay and Allowance Rules, 1998. The Hon'ble Division Bench by the said order dated 12th January, 2007 directed the State authorities to grant benefits under ROPA 1998 reckoning past service of the appellant in NTPC High School.

Since it has already been decided by the Hon'ble Division Bench in *Md. Mofiur Rahman (supra)* that there is no impediment in granting benefits under ROPA Rules reckoning past service of another teacher who was working in NTPC High School, this court does not find any difficulty in recognizing service of the petitioner rendered in NTPC High School for the period from 7th April, 1993 to 4th July, 2002 for the purpose of settling pensionary dues of the petitioner.

Hence, observation/ objection raised by the respondent no.3 on 29th January, 2024 as it appears

from page 33 of the writ petition stands set aside and the State respondent including respondent no.3 are directed to settle the retiral dues of the petitioner including pension reckoning service of the petitioner in NTPC High School for the period from 7th April, 1993 to 4th July, 2002. State respondents are directed to settle the pensionary benefits and issue pension payment order by eight weeks from the date of communication of this order and retiral benefits shall be released in favour of the petitioner by four weeks thereafter.

Hence, writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)