
(2018) 05 CAL CK 0154
In the Calcutta High Court
Case No : Writ Petition29608(W) of 2017

Ananda Gopal Chanda

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 08-05-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 05 CAL CK 0154

Hon'ble Judges : SHEKHAR B. SARAF, J

Bench : Single Bench

Advocate : Gourav Das, Supriyo Chattopadhyay, Sabyasachi Mondal

Final Decision : Disposed Of

Judgement

This is an application under Article 226 of the Constitution of India challenging the non-payment of pension dues of the writ petitioner. By an order

dated February 22, 2017, the District Inspector of Schools (S.E.), Paschim Medinipur, informed the Headmaster/ Teacher-in-Charge of Phandar

Gadadhar Bidyapith, Paschim Medinipur, that in the petitioner's case an objection has been raised by the Director of Pension, Provident Fund and

Group Insurance (in short DPPG).

Counsel on behalf of the respondent authorities submits that the petitioner had completed his training within five years of appointment as was

prescribed in his appointment. However, in the year 2008, by a Court's order, his appointment to the post of Assistant Teacher had been made

retrospectively from the year 1991.

In view of the same, the training that he had completed in the year 1998 was beyond the five years prescribed under the ROPA Rules, 1990. In view

of the same, he took increment when he was not supposed to do so and therefore, there has been an overdrawal from his end.

Counsel on behalf of the writ petitioner submits that ROPA Rules, 1990 would not apply to him as he had completed his training within five years as

per his appointment. The subsequent event of his period as an Assistant Teacher having been increased would have no impact.

He also submits that by letter dated January 25, 2012, the District Inspector of Schools, (S.E.), Paschim Medinipur relying on the Government Order

No.407(6) Edn.(b) dated 14.09.1982 and G.O. No.33 Edn. (b) dated 07.03.1990 and 25 S.E. dated 12.02.1999 had fixed his pay and there is no

question of the pension auditing authorities i.e. Deputy Director, D.P.P.G. now objecting to the same.

Counsel on behalf of the respondent authorities fairly admits that provisional pension should be paid to the petitioner. I have heard learned Counsel for

the appearing parties and considered the materials on record. In view of the same, this Court directs the D.P.P.G. to disburse the provisional pension

to the petitioner upon the District Inspector of Schools forwarding the pension relating paper of the petitioner.

The petitioner has retired on August 17, 2017 and accordingly, the arrears payment of the provisional pension should also be made to him within a

period of four weeks and subsequent regular payment of provisional pension would be made in accordance with law.

In the meantime, the letter dated January 9, 2018 is stayed till the disposal of the writ petition. It appears that affidavit needs to be filed for disposal of

this writ petition. Let affidavit-in-opposition to be filed six weeks from date, reply, if any, two weeks thereafter and liberty to the parties for hearing.