

(1977) 08 CAL CK 0028
In the Calcutta High Court
Case No : C.R. No. 12434 (W) of 1976

Anchal Bhusan Bose

APPELLANT

Vs

Director of Public Instructions, West Bengal and Others

RESPONDENT

Date of Decision : 03-08-1977

Acts Referred:

Citation : 81 CWN 1073

Hon'ble Judges : Amiya Kumar Mookherji, J

Bench : Single Bench

Advocate : Bimal Kumar Datta and Kamalendu Chanda, for the Appellant; Dilip Kumar Basu and Rathindra Nath Bhadury, for the Respondent

Judgement

Amiya Kumar Mookerji, J.—This Rule is directed against an Order dated 18.9.76 passed by the Director of Secondary Education West Bengal, superseding the previous order dated 19.4.76 and directing that the Petitioner will retire with effect from 1.11.76. In terms of the Circular dated 3.4.1369, extension of Service is allowed to the teachers including Headmaster on the recommendation of the Managing Committee on year to year basis up to the age of 65 years. The Petitioner is the Headmaster of Harirampur A. S. D. M. High, School in West Dinajpur. By an order dated 19.4.76 the Director of Public Instruction extended the period of the petitioner's Service from 1.5.76 to 30.4.77 in terms of Rule 28 (3) of the Rules for Management of Recognized Non Government Institutions (Aided and Unaided) 1969. Thereafter the impugned order was passed by the Director of Secondary Education, West Bengal, superseding the previous Order. An Affidavit-in-opposition has been filed on behalf of respondent Nos. 1, 2 and 4 and affirmed by Bankim Chandra Ghosh, Deputy Assistant Inspector of Schools, wherein it is stated that the previous Order dated 19.4.76 was reviewed resulting in the final Order dated 18.9.76. Under the said Government Order the Director of Secondary Education is the final authority in matters of granting extension of Service. Under Sub-Rule (3) of Rule 28, the decision of the Director of Secondary Education is final. There is no provision for review of any Order passed by the

Director of Public Instruction extending the period of Service of a headmaster. Clause (b) of Rule 2 of the Rules for Management of Recognized Non-Government Institutions (Aided and Unaided), 1969 was amended by Government Order No. 934-Edn (s) dated 7.6.76 substituting Director of Secondary Education, West Bengal, for the Director of Public Instruction, West Bengal. That amendment has got no retrospective effect. That being so, the Order passed by the Director of Public Instruction on 19.4.76 becomes final under Rule 28 (3) of the Rules and the Director of Secondary Education has got no jurisdiction either to review the Order passed by the Director of Public Instruction on 19.4.76 in-as-much as the said Order becomes final under Rule 28 (3) of the Rules. Accordingly, the impugned Order which is Annexing "D" to the petition is quashed. The petitioner shall be entitled to get salary up to 30.4.77 in terms of the Order of the Director of Public Instruction dated 19.4.76. The petitioner shall be at liberty to withdraw the amount which had been deposited with the Registrar, as A. S., of this Court by the Managing Committee of the School. If any amount is deposited after 30.4.77, respondent No. 7, Secretary of Managing Committee of the School, shall be at liberty to withdraw the same.

2. It is stated by Mr. Datta that the petitioner has filed a representation for fifth extension of his service which has not been recommended by Managing Committee of the School. The Director of Secondary Education shall be at liberty to dispose of the same in accordance with law. The Rule is made absolute.