
(2020) 01 CAL CK 0238

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 24068 (W) Of 2019

Bimal Kumar Halder

APPELLANT

Vs

State Of West Bengal & Others

RESPONDENT

Date of Decision : 27-01-2020

Acts Referred:

West Bengal Primary Education (Conduct Of Service Of Teachers Of Primary Schools)
Rules, 2001 — Rule 7, 8, 9
Indian Penal Code, 1860 — Section 120B, 406, 409

Citation : (2020) 01 CAL CK 0238

Hon'ble Judges : Tapabrata Chakraborty, J

Bench : Single Bench

Advocate : Shamil ul Bari, Molly Saha, Chaitali Bhattacharya

Final Decision : Dismissed

Judgement

Tapabrata Chakraborty, J

Affidavit of service filed by the petitioner be kept on record. The present writ petition has been preferred challenging inter alia an order dated 16th June, 2017 passed by the Chairman, South 24 Parganas District Primary School Council (in short, the said DPSC).

Mr. Bari, learned advocate appearing for the petitioner submits that while the petitioner was working in the post of Head Teacher in Rajapur Free Primary School, he was illegally implicated in a criminal proceeding, being Canning Police Station case no.495(8) 2009 under Sections 406/409/120B of the Indian Penal Code dated 21st August, 2009 and accordingly, he was absent for a period from 8th August, 2009 till 3rd July, 2010. Upon obtaining anticipatory bail he submitted a representation on 10th August, 2010 to the Chairman of the said DPSC to allow him to resume his duties. Such representation was duly considered and by an order dated 5th September, 2011 he was allowed to resume his duties on and from 16th September, 2011. Thereafter, the petitioner was transferred to Morapai Free Primary School by an order dated 17th January,

2012. However, the authorities withheld the incremental benefits of the petitioner. Aggrieved thereby, he submitted a representation and after granting an opportunity of hearing to him, the Chairman of the said DPSC passed an order dated 16th June, 2017 denying his prayer for grant of increments.

Aggrieved thereby, the petitioner has approached this Court.

Mr. Bari argues that without passing any order of suspension and without proper enquiry, the respondent authorities could not have withheld the incremental benefits of the petitioner. In support of such contention he has placed reliance upon the Rules 7, 8 and 9 of the West Bengal Primary Education (Conduct of Service of Teachers of Primary Schools) Rules, 2001 (in short, the said Rules).

Mrs. Bhattacharya, learned advocate appearing for the State respondents denies and disputes the contention of the petitioner.

Records reveal that the petitioner was allowed to resume his duties by an order dated 5th September, 2011 on condition that after joining the school he would be paid the same salary as he was paid at the time of initiation of the criminal proceedings against him. It was also stated in the said order that the issues of unauthorised absence and fixation of salary would be considered after conclusion of the criminal proceeding. Accepting the said order, the petitioner resumed his duties on and from 16th September, 2011. The criminal case is still pending and in the midst thereof, the petitioner submitted several representations for grant of incremental benefits. The last of such representation was considered and rejected stating that he would be paid the salary, as fixed by the order dated 5th September, 2011. The said order was passed on 16th June, 2017 whereas the writ petition has been filed in the year 2019 without appropriately explaining the delay.

It is not a case of suspension or imposition of any penalty and as such the argument of Mr. Bari that Rules 7, 8 and 9 of the said Rules have been violated is not acceptable to this Court. The petitioner was allowed to resume his duties with conditions specified in the order dated 5th September, 2011. The petitioner accepted such conditions and resumed his duties. In view thereof, there is no infirmity in the order dated 16th June, 2017 passed by the Chairman of the said DPSC and as such, no interference is called for.

Accordingly, the writ petition is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.