

13 11.12.2024
rkd Ct.18

W.P.A. 29070 of 2024

Mahabuba Rahaman & Ors.

-vs-

State of West Bengal & Anr.

Mr. Gaus Ul Alam

....for the petitioner.

Md. Sarwar Jahan,
Ms. Mausumi Mitra,
Ms. Tapati Sarkar

....for the respondent no.2.

Mr. Pinaki Bhattacharya,
Mr. Kaustav Bhattacharya

....for the State.

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

The writ petition is preferred jointly by five
persons who are working as Madhyamik Shiksha
Samprasarak/Madhyamik Shiksha Samprasarika
in order to work as Samprasarak/Samprasarika
not as para teacher based on options which they
have exercised. Since petitioners are working in
different Madhyamik Shiksha Kendras and their
date of appointments are different and they have
exercised options on different dates to be treated as
para teacher, all the petitioners cannot join
together in one writ petition in pursuit of remedy.

Hence, this writ petition is entertained in
connection with first petitioner and stands
dismissed in connection with petitioner nos. 2 to 5.

However, petitioner nos. 2 to 5 shall be at liberty to file writ petition afresh separately on selfsame cause of action.

Petitioner has come up with the present writ petition claiming to be treated as Samprasarak/Samprasarika in Madhyamik Shiksha Kendra (for short, "MSK") instead of para teacher.

It has been submitted by the learned advocate representing the petitioner that in terms of notification dated 18th December, 2019 passed by the School Education Department, Government of West Bengal petitioner exercised option to function as para teacher not as Samprasarak/Samprasarika. However, petitioner has subsequently found that for a considerable period of time scheme was not introduced and ultimately vide memorandum dated 29th August, 2024 issued by the Additional Secretary to the Government of West Bengal, Department of School Education benefit of EPF Scheme is only extended from 1st April, 2024 in the event Samprasarak/Samprasarika of Madhyamik Shiksha Kendras opted for engagement upto the age of 60 years. It is submitted by the learned advocate representing the petitioner that such

scheme which has been introduced vide memorandum dated 29th August, 2024 is found to be not beneficial to the petitioner since same has been introduced with effect from 1st April, 2024 and petitioner wants to be treated as Samprasarak/Samprasarika of MSK without giving effect to the option which petitioner has exercised. In support of such contention reliance is placed on an order dated 16th March, 2023 passed by a coordinate Bench on a writ petition being **WPA 4525 of 2023 (Bidhan Chandra Naskar & Ors. Vs. The State of West Bengal & Ors.)**

Paschim Banga Rajya Sishu Shiksha Mission (for short, 'PBRSSM') is represented by learned advocate.

It has been submitted specifically on behalf of PBRSSM that the situation which was prevailing prior to issuance of memorandum dated 29th August, 2024 is altered after 29th August, 2024. Therefore, at present petitioner has no other choice but to come under the said memorandum dated 29th August, 2024 based on option petitioner has exercised. In the same breath it has also been submitted on behalf of PBRSSM that since the benefit of EPF is extended to the Samprasaraks/Samprasarikas with effect from 1st April, 2024 it

may not be beneficial to those Samprasarak/Samprasarika who have less than two years left if they are to retire at the age of 60 years at par with para teachers.

Having considered the respective submissions made on behalf of the parties this Court finds that there is memorandum dated 29th August, 2024 issued by the Additional Secretary to the Government of West Bengal deciding to extend benefit of EPF to Samprasarak/Samprasarika of MSKs with effect from 1st April, 2024 which appears to be not beneficial to the petitioner as a result whereof petitioner is praying before this Court for a direction to be treated as Samprasarak/Samprasarika not as para teacher by not giving effect to the option which petitioner has exercised. Similar benefit has been extended by a coordinate Bench by passing order dated 16th March, 2023 on a writ petition being **WPA 4525 of 2023** in the case of **Bidhan Chandra Naskar** (supra). Placing reliance on the ratio of **Bidhan Chandra Naskar** (supra) this Court has passed several orders directing the authorities not to treat Samprasarak/Samprasarika as para teachers on giving credence to the options which they have exercised. Only difference today is issuance of

memorandum dated 29th August, 2024 whereby State authority has decided to extend the benefit of EPF to the petitioner with effect from 1st April, 2024 which is found not to be beneficial so far petitioner is concerned since with the benefit of EPF at the fag end of petitioner's service tenure petitioner has to retire at the age of 60 years instead of 65 years. If the petitioner is treated as Samprasarak/Samprasarika petitioner can function upto the age of 65 years which according to the petitioner is more beneficial than to function as para teacher till the age of 60 years accepting the condition as stipulated in the memorandum dated 29th August, 2024.

Since in the writ petitions which have been decided prior to issuance of memorandum dated 29th August, 2024 permitting those petitioners to be treated as Samprasaraks/Samprasarikas without giving credence to the options which they exercised this Court finds no impediment in extending same benefit to the present petitioner. Mere issuance of memorandum dated 29th August, 2024 should not act as fetter so far present petitioner is concerned to be treated as Samprasarak/Samprasarika without giving credence to the options which petitioner has exercised.

In view of aforesaid discussions the writ petition stands allowed directing the concerned State authorities including PBRSSM authority to treat the petitioner as Samprasarak/Samprasatika and the option which petitioner has exercised shall be treated as cancelled.

It is also clarified that in future petitioner cannot claim the benefits as para teacher.

Accordingly, the 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.)