

WP(C) 6572/2007

BEFORE

HONBLE MR JUSTICE AMITAVA ROY

Heard Mr MJ Quadir, learned counsel for the petitioner. Also heard Mr MR Pathak, learned Standing counsel, Education Department.

A writ of mandamus has been prayed for to direct the respondents to release an amount of Rs.5,65,900/- to the petitioner as claimed to be due on account of arrear salary for the period 27.1.1995 to 28.2.2002 along with the subsistence allowance for the period during which he was placed under suspension, as a disciplinary measure.

The pleaded facts, briefly stated are that, the petitioner was appointed as a regular B.Sc. Teacher in the year 1975 in Joymongal High School (herein after referred to as the 'School') under Half a Million Job Programme against a sanctioned post. The school was provincialised w.e.f. 23.02.1980. After the regular incumbent of the office of the Headmaster of the school retired in 1995, the petitioner staked his claim for the said office as the seniormost Assistant Teacher thereof. While the tussle of the office continued, as two other teachers of the school also claimed the same, the petitioner was placed under suspension on 26.3.1997 pending drawal of a departmental proceeding against him. He was reinstated in service on 25.10.1997. The departmental proceeding that was drawn up against him was also eventually disposed of on 26.4.2002 by issuing a warning to him to be more punctual and sincere in his duties. By an order of the same date, the period of suspension i.e. 31.10.1995 to 17.11.1996 and 26.3.1997 to 23.10.1997 was decided to be treated to be on duty for all purposes. As his repeated representations before the authorities concerned for the aforementioned arrear entitlements remained un-responded, he is before this Court.

The Director of Secondary Education, Assam in his affidavit in substance, has indicted that the proposal for the petitioner's arrear dues is in the process of being submitted before the government for necessary approval.

In course of the arguments, the learned counsel for the petitioner has produced a copy of the letter dated 14.2.2008 bearing Memo No.ACB/CC/2/2000/2 of the Director of Secondary Education, Assam whereby a requisition for an amount of Rs.5,41,597/- has been placed with the Commissioner & Secretary to the Govt. of Assam, Education Department for the sanction thereof for liquidating the arrear dues of the petitioner by way of arrear salary and D.A. for the period 1.1.1995 to 28.2.2002.

After hearing the learned counsel for the parties and on a consideration of the materials available on record, this Court considers it fit and proper to close this petition with a direction to the Commissioner & Secretary to the Govt. of Assam, Education Department to take an appropriate decision on the proposal of the Director of Secondary Education as conveyed by his letter dated 14.2.2008 and if the same is sanctionable in law and the petitioner is entitled to, the amount mentioned therein, the said authority would cause necessary steps to be taken to ensure that the said sum is defrayed to the petitioner without undue delay.

Having regard to the bureaucratic formalities that would be involved, it is ordered that the exercise as above should be completed within a period of four(4) months from the date of receipt of a certified copy of this order. It is made clear that this Court has not offered any comment on the merit of the petitioner's claim and it would be exclusively within the domain and discretion of the authorities concerned to take a decision in this regard.

The petition stands disposed in the above terms. No costs.