

(2006) 09 CAL CK 0001

Calcutta High Court

Case No: Writ Petition No. 9745 (W) of 2005

Prabhat Ranjan Das

APPELLANT

Vs

District Inspector of Schools
(S.E.) and Others

RESPONDENT

Date of Decision: Sept. 19, 2006

Citation: (2007) 113 FLR 523

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Sardar Amjad Ali, Mansam Noor and Aparna Das, for the Appellant; Taraprasad Halder, for the Respondent

Judgement

Jayanta Kumar Biswas, J.

The petitioner requested the District Inspector of Schools (S.E.), South 24-Parganas for considering the question of granting him benefits for eighteen years. According to him he was entitled to get the benefits. In response the District Inspector of Schools issued the impugned order dated December 1, 2004, which is : "In reference to the above, the undersigned has to state that his 18 years benefit case will be taken up for consideration as and when the special pay paid to Sri Das has been refunded as excess amount drawn through Treasury Challan No. T.R. "Form-7 with an intimation to this office."

2. Counsel for the State finds nothing to justify the action of the District Inspector of Schools. He is unable to say under what provision of law the District Inspector of Schools was empowered to put the condition that unless the petitioner paid the special pay allegedly received by him in excess of legal entitlement. His request for granting him benefits of eighteen years would not be considered. In my view, the District Inspector of Schools has acted most improperly. He has abused his power by putting an illegal condition for considering the petitioner's claim that he was legally entitled to get some benefits.

3. If the petitioner was liable to refund any amount or if the District Inspector of Schools was empowered to recover any amount from the petitioner, nothing prevented the authority from initiating appropriate proceedings in accordance with law. But that authority was not competent to put a condition that the petitioner's other claims would be considered only if he, of his own accord, refunded the amount allegedly accepted by him in excess of his legal entitlement. A condition of the nature as was put, could have been put, only if the law permitted it. I repeat that there is no law, at least none has been shown to me, that empowered the District Inspector of Schools to put the conditions.

4. For these reasons the impugned order is set aside. I order that the District Inspector of Schools shall immediately take up the claim of the petitioner for consideration. Needless to say that the decision shall be given in accordance with law, as expeditiously as possible, and that if the petitioner is found to be entitled, the benefits shall be given to him. It is made clear that if the petitioner is liable to refund any amount, the authority will be free to proceed for effecting recovery in accordance with law. There shall be no order for costs in the case.

Urgent certified xerox copy of this order shall be supplied to the parties, if applied for, within three days from the date of receipt of the file by the section concerned.