

(2002) 04 CAL CK 0001

Calcutta High Court

Case No: Writ Petition No. 21305 (W) of 2000

Uma Shankar Rai

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: April 26, 2002

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2002) 2 CALLT 239 : (2002) 94 FLR 1202

Hon'ble Judges: Ashok Kumar Mathur, C.J; Jayanta Kumar Biswas, J

Bench: Division Bench

Advocate: V.N. Dwivedi, for the Appellant; R.L. Moitra, Government Pleader and T.D. Maiti, for the Respondent

Judgement

1. This is a Public Interest Litigation whereby the petitioner has espoused the cause of retired Assistant Teachers in Government aided Primary Schools of West Bengal settled outside West Bengal, and it is prayed that teachers of Government aided Primary Schools should get their pension from their respective home Districts in the same manner as is paid in case of Government, Municipal & Government aided school employees of Secondary/Higher Secondary Schools.

2. The learned counsel for the petitioner submits that many of the retired employees of the Government aided schools after serving in the State of West Bengal and after their retirement being settled outside the State of West Bengal find it difficult to collect their pension. It is also submitted that it is not possible to come of and on to West Bengal to collect pension from the respective District. Therefore, in this Public Interest Litigation it is prayed that a writ of Mandamus be Issued directing the respondents to release pension of the incumbent from their respective District.

In this connection our attention was invited to the Rules known as West Bengal Recognised Non Government Educational Institution Employees (Death-cum-Retirement Benefit) Scheme, 1081. The scheme speaks about pension and other retirement benefits but it does not deal with the situation in respect of a retired employee settled outside west Bengal. However Rule 45 lays down that in respect of matters for which provision has not been made in this Scheme the relevant provisions of the West Bengal Services (Death-cum-Retirement Benefit) Rules 1971 (amended from time to time) shall apply mutatis mutandis subject to the approval of the State Government.

3. There is provision in the West Bengal Services (Death-cum-Retirement Benefit) Rules 1971 (hereinafter referred to as Rules of 1971) that in case the incumbent is an employee of the State of West Bengal after his retirement from the State of West Bengal he can make an application before the Accountant General/Competent Authority for transfer of his pension and on sufficient cause being shown the Accountant General/Competent Authority, West Bengal can direct transfer of payment of pension from one Treasury to another Treasury in India as per Rule 160 of the aforesaid Rules.

Rule 160 reads as follows :-

"The competent authority or the Accountant General, West Bengal may on application and on sufficient cause being shown, permit transfer of payment from one treasury in India to another".

4. In this view of the matter we are of opinion that sufficient provisions have been made in the Rules that an incumbent on his retirement being settled outside the State the Accountant General/Competent Authority can pass appropriate order for transfer of his pension from one Treasury to another Treasury in India.

5. We, therefore direct that any incumbent who retired from Government aided school and settled outside the State of West Bengal can make an application as per provisions of rule 160 of the Rules 1971 before the Accountant General/Competent Authority for payment of pension from one Treasury to another Treasury of his choice and the concerned authority shall pass necessary orders for payment of pension as per law.

6. With these observations the writ Petitioner stands disposed of.

Let plain xerox copies of this order duly countersigned by the Assistant Registrar (Ct.) be given to the learned Advocates for the parties for the purpose of communication and compliance of the order passed by this Court.