

11.02.2021
Item No. 6+7
Ct. No. 04
PG

M.A.T. 367 of 2018
I.A.no. CAN 1 of 2018 (Old CAN 2291 of 2018)
With
I.A. no. CAN 2 of 2018 (Old CAN 2293 of 2018)
With
I.A. CAN 3 of 2020

The State of West Bengal & Ors.
Vs.

Dr. Namita De & Anr.
With

M.A.T. 368 of 2018
I.A.no. CAN 1 of 2018 (Old CAN 2285 of 2018)
With
I.A. no. CAN 2 of 2018 (Old CAN 2294 of 2018)
With
I.A. CAN 3 of 2020

The State of West Bengal & Ors.
Vs.

Ashish Gangopadhyay (Ganguly) & Anr.

Mr. Amitesh Banerjee, sr. adv.
Sr. Standing Counsel
Mr. Jayak Kr. Gupta.....for appellants

Mr. Soumya Majumdar
Ms. Kabita Mukherjee
Mr. Manas Dasgupta.....for respondents/
writ petitioners

State is appellant. Mr. Banerjee, learned senior advocate, Senior Standing Counsel appears on its behalf. He submits, impugned in the writ petition was memo dated 2nd August, 2012 being decision of the State that no salary payment under WBS (ROPA) Rules, 1998 or any other subsequent Revision of Pay and Allowance Rules will be granted to employees who crossed age of 60 years with effect from 1st April,

2012. By impugned judgment dated 1st December, 2017 the memo was set aside and quashed. State was directed to allow petitioner to resume her duties and pay her current salary and allowances, to which she would have been entitled had the memo not been issued. Direction for payment of arrear salaries in 12 monthly installments was also made.

We find the writ petition has six respondents, five of whom are the State and its functionaries while the sixth is the Municipality. In it, respondent/writ petitioner has referred, *inter alia*, to memo dated 18th May, 1985, appointing her as selected to the post of Medical Officer and entitled to pay and allowances admissible to doctors appointed in urban family welfare centres. She appears to be aware that she would be treated as an employee of the urban family welfare centre to be attached to Dum Dum Municipality specified hospital. She in her writ petition also says regarding general practice of the family welfare centre raising bill for entire year (April to March of following year) forwarded to the Government for sanction of grant-in-aid based on the bill. Her contention, as appears from paragraph 15, is that the offending memo is in contradiction of memos dated 25th March, 2008 and 11th June, 2008.

The offending memo is in respect of salaries of employees of approved NGOs, granted from

Centrally Sponsored (New Scheme) Fund under direct supervision of Family Welfare Branch of Health and Family Welfare Department, Government of West Bengal. Reference to employees in the memo, therefore, means those employees. It says also that the order supercedes all other orders in that regard issued from time to time by the Government. We would like demonstration that firstly, the offending memo is in contradiction with earlier memoranda dated 25th March, 2008 and 11th June, 2008 and secondly, the Government does not have the power to cause supersession of those memos by the offending one.

List on 1st March, 2021.

Affidavit of service filed by respondent/writ petitioner.

(Arindam Sinha, J.)

(Suvra Ghosh, J.)