

05.05.2026
Sl. No.19(DL)
Ct. No.14
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 6717 of 2026

**Sisir Kumar Mondal
versus
The State of West Bengal & Ors.**

Mr. Rabi Sankar Chattopadhyay,
Mr. Uday Sankar Chattopadhyay
Ms. Trisha Rakshit,
Ms. Rajashree Tah,
Ms. Aishwarya Datta,
Ms. Sadia Parveen

...for the Petitioner.

Ms. Soumi Guha Tahakurta

...for the State.

Mr. Saibal Acharyya,
Mr. Tanweer J. Mondal

...for the DPSC, Purba Bardhaman.

1. Statement of fact filed by the State-respondents furnished by the District Inspector of Schools (PE), Purba Bardhaman dated 27th April, 2026 is taken on record.
2. By the present writ petition, the petitioner seeks for quashing and/or setting aside of Memo No.163/M dated 25th September, 2025 issued by Sub-Inspector of Schools, Memari Circle, respondent No.5 (Annexure P-5) to the writ petition.
3. The petitioner contends that he retired from service on superannuation as an Assistant Teacher on 31st November, 2025. During his service tenure a criminal case was initiated against 62 persons including the petitioner being Memari Police Station Case No.66 of 2019 dated 06.02.2019 under Sections 143/186/353 /333/427/435/335/324/326/307/109/34 of IPC,

Sections 3/4 of PDPP Act and Sections 09/15A/15B of WBMPO (Amendment) Act, 2017. The petitioner was arrested in connection with the aforesaid case. As the petitioner was detained in custody for more than 48 hours, he was suspended on and from 6th February, 2019. The petitioner was granted bail on 16th February, 2019. Thereafter petitioner made a representation before the authority concerned for withdrawal of order of suspension. However, the prayer of the petitioner was not considered. Being aggrieved by the action of the authority concerned the petitioner preferred a writ petition being WPA 11554 of 2020 which was disposed of on 27th January, 2020 with a direction upon the Chairman of the concerned District Primary School Council to consider the representation of the petitioner. On 24th August, 2021, the Chairman of the Council withdrew such order of suspension of the petitioner and allowed him to join the respective school. Consequently, the petitioner joined the said school on 25th August, 2021. The petitioner on superannuation has not been granted any pension on the ground of pendency of aforementioned criminal proceedings. Hence this writ petition.

4. Mr. Rabi Sankar Chattopadhyay, learned advocate appearing for the petitioner submits that as per West Bengal Primary Education Employees' (Death-cum-Retirement Benefit) Rules, 2009 (*hereinafter referred to as the DCRB Rules, 2009*) the petitioner is entitled

to get full pension since the criminal proceedings does not involve moral turpitude and has no nexus with the conduct of service. To buttress his contention, he relies on a decision of the Co-ordinate Bench passed in ***Subhash Mahato versus State of West Bengal & Ors.*** reported in ***2023 SCC OnLine Cal 344.***

5. Ms. Soumi Guha Thakurta, learned Advocate for the State-respondents submits that e-pension file of the petitioner has been returned on the ground of pendency of the criminal proceedings. In the event such e-pension papers are submitted along with final judgment of the criminal proceedings, the department shall proceed to sanction pension in favour of the petitioner in accordance with the existing rules.
6. Mr. Saibal Acharyya, learned Advocate for the District Primary School Council, Purba Bardhaman submits that DPSC has already taken all the steps from its end for disbursement of the pensionary benefits to the petitioner and forwarded it to the District Inspector of School (PE), Purba Bardhaman.
7. Upon hearing learned Advocates for the respective parties the only issue which falls for consideration is whether the petitioner is entitled to full pension or not, in the event of pendency of the criminal case.
8. Indisputably, the petitioner has superannuated from service on 31st November, 2021. A criminal case being Memari Police Station Case No.66 of 2019 dated 06.02.2019 was initiated against the petitioner and others, while he was in service. Such criminal case is

still pending before the concerned criminal court. There cannot be any quarrel that the relevant criminal proceedings do not pertain to any moral turpitude nor has any nexus with the conduct of the service of the petitioner.

9. At this juncture, it would be apposite to reproduce Rule 19 sub-clause (4) of DCRB Rules, 2009 as follows:

“19(4). Where any departmental or judicial proceeding is instituted against an employee who has retired on attaining the age of retirement or otherwise, he shall be paid during the period, commencing from his retirement to the date on which, upon conclusion of such proceedings final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement or if he was under suspension, for the period between the date of his joining to the date of suspension, but no gratuity of death-cum-retirement gratuity shall be paid to him until the conclusion of such proceeding and the issue of final orders thereon.”

10. Upon bare reading of the aforesaid Rule it is manifest that where any departmental or judicial proceeding is instituted against an employee who has retired on attaining the age of retirement or otherwise, he shall be paid during the period, commencing from his retirement to the date on which, upon conclusion of such proceedings final orders are passed, a provisional pension. Be that as it may, the Coordinate Bench of this court in **Subhash Mahato (supra)** while dealing with the expression of “*Judicial Proceeding*” referred to in clause 19.5 of the DCRB Scheme, 1981 observed as follows:

*“21. The expression **“judicial proceeding”** referred to in Clause 19.5 as quoted above, thus, should be construed, interpreted and understood in the context of a proceeding in relation to satisfactory completion of employment of an employee during his employment tenure. Further the expression used in the said Clause 19.5 **“departmental/judicial proceedings”** made the understanding of this Court explicit and clear. The expression departmental proceedings used in the said clause would necessarily mean proceeding against such employee in a matter relating to the discharge of his employment as an employee, the judicial proceedings referred to in the said clause would, therefore, conspicuously and in no uncertain terms shall mean a **Judicial Proceeding must have a nexus, connection and relation with the employment of the employee in course of his employment and not otherwise.** In the facts of this case, the criminal proceeding in which the petitioner was taken into custody had no nexus with his service. The State employer had not labelled any charge of pecuniary loss caused to the government by the petitioner during his employment. The employer had not initiated any disciplinary proceeding against the petitioner during his employment carrier.”*

11. Since the judicial proceeding in the case at hand has no nexus, connection and relation with the employment of the employee in course of employment, the pensionary benefits of the petitioner cannot be withheld by the authority on such ground. Further it is relevant to note that there is no such departmental proceeding initiated against the petitioner during his employment.
12. Accordingly, the District Inspector of School (PE), Purba Bardhaman, respondent No.4 is directed to take all necessary steps towards sanction of the pensionary benefits including pension in favour of the petitioner positively within a period of eight weeks from the date of communication of this order. Arrears, if any, shall be paid to the petitioner within the aforementioned period together with interest @ 8%

per annum from the date of entitlement till the date of actual payment.

13. Learned advocate for the petitioner is directed to communicate this order to respondent No.4, the District Inspector of School (PE), Purba Bardhaman, for necessary compliance.
14. With the above direction, the writ petition being **WPA 6717 of 2026** stands disposed of.
15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
16. Interim order, if any, stands vacated.
17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)