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akb Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 582 of 2019
Sankar Chandra Khan
-Versus-
The State of West Bengal & Ors.

Mr. Debajit Kundu ...For the Petitioner

Mr. Debabrata Dhar, Id. A.G.P.
Ms. Bedashruti Bose ...For State Respondents

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by an order dated May 28, 2019 passed by the District Inspector of Schools (S.E.), Jalpaiguri, rejecting the prayer for higher scale of pay of the petitioner.

The basis of the said order is that the Order No. 155-SE(B)/10M-102/98 does not allow a person who has been appointed through the West Bengal School Service Commission for higher pay scale and the same can be granted only as per the scale mentioned in the West Bengal School Service Commission.

The District Inspector of Schools (S.E.), Jalpaiguri in its order dated May 28, 2019 did not take into consideration the Order, being Order No. 25-SE(B)/IM-102/98 dated February 12, 1999 and the specific Clause 12(3) in the above Order.

It may be noted that the Division Bench of this High Court in the case of *Smt. Nita Dey Chandra Vs. The State of West Bengal & Ors.*, reported in 2015 (1) CLJ (Cal.), has allowed the higher scale of pay in cases where the petitioner had improved his qualification before the Control of Expenditure Act, 2005.

I have heard learned Counsel appearing on behalf of the parties and perused the materials placed on record.

In the light of the above, I quash and set aside the order passed by the District Inspector of Schools (S.E.), Jalpaiguri and direct the District Inspector of Schools (S.E.), Jalpaiguri, being the respondent No. 3 to once again grant an opportunity of hearing to the petitioner after considering the judgments and the Order indicated above, and thereafter, to pass a reasoned order within a period four weeks from the date of communication of this order.

Respondent No. 3 is also directed to communicate the reasoned order to the petitioner within a week from the date of passing the reasoned order.

With the aforesaid observation, the writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Shekhar B. Saraf, J.)