

Ct. 10.03
No. 26
26 2021
34
akb

W.P.A. 4835 of 2021
Dipankar Bhowmik
-Versus-
The State of West Bengal & Ors.

Mr. Sayan De
Mr. Kaustuv Shome **...For the Petitioner**

Ms. Chaitali Bhattacharya
Mr. Kartik Chandra Kapas **...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 January 24, 2017 passed by the Deputy Director of School Education (G.A.), West Bengal, in relation to the prayer of the petitioner for higher scale of pay due to obtaining of his Post-Graduate degree.

Learned Counsel appearing on behalf of the petitioner submits that the petitioner was appointed in the year 1989 and thereafter in the year 2003 he applied before the School Authorities for seeking permission to obtain Master degree. The said application of the petitioner was forwarded by the Headmaster of the school concerned to the District Inspector of Schools (S.E.), Purba Midnapur. He further submits that no reply to the same was received by the District Inspector of Schools (S.E.), Purba Midnapur, and accordingly, the permission is deemed to have been granted in favour of the petitioner.

Ms. Chaitali Bhattacharya, learned Counsel appearing on behalf of the State respondents submits that the petitioner did not obtain prior permission in terms of the provisions of Government Order, being G.O. No. 548-SE(S) dated June 24, 1997. She also submitted that silence of the District Inspector of Schools (S.E.) is not a deemed permission. She further submitted that after coming into

effect of the School Control and Expenditure Act, 2005 and the Government Order, being G.O. No. 593-SE(B) dated November 27, 2007, the petitioner was required to take permission once again for taking part in the M.Sc. Part-II Examination, which he has not been done.

Learned Counsel appearing on behalf of the petitioner has relied on a decision of the coordinate Bench of this Court in the case of *Nibir Kumar Som Vs. State of West Bengal & Ors. (W.P. 4762 (W) of 2012)* to buttress his argument that non-refusal by the District Inspector of Schools (S.E.) would amount to a deemed permission.

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

In my view the Division Bench judgment delivered in the matter of *Asim Kumar Adgiri vs. State of West Bengal & Ors. (In re.: MAT 1459 of 2012 with CAN 8487 of 2012)* is pat on the point, and accordingly, the impugned order is required to be quashed and set aside. I accordingly, quash and set aside the impugned order, being Memo no. 84-GA dated January 24, 2017.

Accordingly, I direct the District Inspector of Schools (S.E.), being the respondent No. 3, to sanction the Post-Graduate Scale of Pay in favour of the petitioner within a period of eight weeks from date. Needless to mention, the consequential benefits and arrears, if any, shall also be paid to the petitioner in accordance with law.

With the above direction, this 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.*)