

29 20.09.2021
rkd Ct.05

W.P.A. 14731 of 2021
(Through Video Conference)

Sanjib Mukhopadhyay

-vs-

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya

....for the petitioner.

Ms. Chaitali Bhattacharyya,
Mr. Subhendu Roychodhury

....for the State

Affidavit-of-service filed in Court is taken on
record.

Writ petitioner was an Assistant Teacher in
a Government aided recognized school viz.
Kanchannagar D. N. Das High School (H.S.),
District- Bardhaman (for short 'said school') at the
material point of time. The petitioner's appointment
as Assistant Teacher in the said school was with
effect from 25th September, 2018.

Mr. Bhattacharya, learned advocate
appears on behalf of the petitioner and submits
that the petitioner was receiving salary in
postgraduate scale of pay in the said school but the
petitioner is aggrieved by the pay fixation made by
the concerned respondent authorities with effect
from 25th September, 2018 without considering the
previous approved service of the writ petitioner in
previous schools; according to petitioner in the

previous schools also he was enjoying postgraduate scale of pay. Writ petitioner prays for pay protection while fixing his pay with effect from 25th September, 2018 considering his postgraduate scale of pay which he was receiving in other schools. During course of hearing reliance has been placed on Government order dated 1st August, 2019 issued by the Principal Secretary, School Education Department, which according to the writ petitioner extends the benefit of pay protection to the writ petitioner and such benefit should be forthwith given to him. One representation has been preferred by the writ petitioner on 8th August, 2019 addressed to the Principal Secretary, School Education Department, seeking grant of pay protection in connection with his service in Kanchannagar D. N. Das High School (H.S.) with effect from 25th September, 2018. It has been further submitted that meanwhile the writ petitioner has been appointed as headmaster in a different school with effect from 25th July, 2019.

Ms. Bhattacharyya, learned senior Government advocate appears on behalf of the State and submits that the previous approval memo whereby the appointment of the writ petitioner was approved in two different schools

dated 5th May, 2005 and 9th January, 2014 do not specifically indicate the educational qualification of the writ petitioner which he was possessing at the material point of time. Therefore, it is not clear regarding sanction of pay scale accorded to the writ petitioner while working in those two schools prior to joining third school i.e. D. N. Das High School (H.S.), Kanchannagar, District- Bardhaman.

This Court has considered the rival contentions of the parties and finds it fit to direct the Principal Secretary, School Education Department, being the respondent no.2 to take decision on the representation of the writ petitioner dated 8th August, 2019, page 34 of the writ petition, within a period of twelve weeks from the date of communication of this order upon consideration of the relevant circulars including the Circular dated 1st August, 2019 being No.914-SE/S/5P-03/19 relating to grant of pay protection to the teachers who join new posts in different schools. The respondent no.2 is directed to give opportunity of hearing to the writ petitioner as well as the school authority of D. N. Das High School (H.S.), Kanchannagar, and also the District Inspector of Schools (S.E.), Purba Bardhaman before taking such decision. Respondent no.2 shall communicate

reasoned order within a period of fortnight thereafter. If the prayer of the writ petitioner is refused, the respondent no.2 is directed to assign reasons in support of the same.

Accordingly, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)