

Item No.10

01.12.2021
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

WPA 16564 of 2019
Sri Budhan Chandra Saha
v.
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
... for the petitioner.

Mr. Bhaskar Prasad Vaisya
Mr. Sagnik Chatterjee
... for the State respondents.

Ms. Susmita Sen
... for BDPSC

The petitioner's prayer for granting 'A' category scale of pay stood rejected by an order dated June 24, 2019 passed by the Deputy Secretary, School Education Department (Elementary Education Branch).

The petitioner was getting his 'A' category scale of pay in terms of the department's Memo dated August 13, 2012 but the said 'A' category scale of pay stood withdrawn in terms of the order of the department dated March 4, 2013.

The issue in question was dealt with in several matters by this court. The Hon'ble Division Bench by an interim order dated February 11, 2021 passed in MAT 714 of 2020 with CAN 1 of 2021 and CAN 2 of 2021 (The

District Primary School Council & Anr. v. Bharguram Karmakar & Ors.) directed the respondents to pay 'A' category scale of pay to the writ petitioners for the subsequent period and to continue such payment till disposal of the appeal without prejudice to the rights and contentions of the appellants. The Court directed that in the event, the appeal succeeds any payment made in terms of the order from October 2018 should be refunded or adjusted against future salaries of the writ petitioners subject to the fulfillment of the conditions.

In the instant case the petitioner was receiving 'A' category scale of pay on and from July 1, 2014 till May 10, 2016.

The Hon'ble Division Bench passed the interim order taking into consideration that the petitioners were receiving the 'A' category scale of pay for a considerable period of time.

In view of the above, as it appears that the petitioner is similarly circumstanced, accordingly, the instant writ petition is disposed of by directing the respondent authorities to pay 'A' category scale of pay to the petitioner. The petitioner will be bound to refund the excess payment made to him in the 'A' category scale of pay, in the event, the appeal succeeds in terms of the interim order passed by the Hon'ble Division Bench in MAT 714 of 2020 on 11th February, 2021.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)