

January 8, 2021

ARDR

(11)

WPA 23301 of 2017

Chandra Mukherjee

Vs.

The State of West Bengal & ors.

Mr. Ekramul Bari,

Ms. Tanuja Basak

...for the petitioner.

In spite of service, no one appears on behalf of the State respondents, affidavit of service affirmed on behalf of the petitioner is taken on record.

Petitioner is an Assistant Teacher in Science Group was appointed on the said post on November 13, 2007 with the educational qualification of B.Sc. (Honours) in Physics. It has been submitted on behalf of the writ petitioner that since the date of her appointment she has been enjoying Honours scale of pay. It is relevant to note herein that at the time of her appointment on November 13, 2007, petitioner was undergoing higher course of studies for obtaining post graduate degree in Physics and Part – I examination was complete. After her appointment she had to appear for clearing Part-II examination of the said course which was completed on 24th July, 2008. The leave availed of by the writ petitioner for participating in M.Sc. Part-II examination 2007 was duly sanctioned by the concerned authority of the West Bengal Board

of Secondary Education vide memo dated 17th February, 2009.

Subsequent to obtaining post graduate degree in Physics, through the school authority, prayer was made to the concerned District Inspector of Schools (SE), South 24 Parganas for sanction of post graduate scale of pay since she was enjoying hounours scale of pay from the date of her appointment in consideration of her qualification of B.Sc. (Honours) in Physics. Such prayer of the writ petitioner made through the school authority dated 31st March, 2011, at page 20 of the writ petition, is still pending for consideration.

During course of hearing it is further submitted on behalf of the writ petitioner that the requirement under Circular/letter no.593-SE(B) dated 27th November, 2007 issued by the Joint Secretary, School Education Department, Secondary Branch, as contemplated under paragraphs 1,2 and 3 need not be complied with in view of the fact that at the time of appointment the petitioner already completed Part-I course and she was an enrolled candidate under the said higher course of studies. In this regard reliance has been placed on an unreported order dated 5th June, 2018 passed by a coordinate Bench on the writ petition being WP No. 23158 (W) of 2017.

In view of the above facts, the District Inspector of Schools (SE), South 24 Parganas is directed to take

decision on the entitlement of the writ petitioner to receive salary in post graduate scale of pay in view of acquiring educational qualification of M.Sc. in Physics in accordance with law after affording an opportunity of hearing to the writ petitioner and the school authority of Dakshin Sangur Karunamoyee Girls' High School, the respondent no.4 herein. Such exercise shall be completed within a period of eight weeks from date of communication of this order.

It is made clear that at the time of such decision, the respondent no.3 shall take into consideration the order passed by a coordinate Bench on 5th June, 2018, as referred to above. The petitioner is directed to supply a copy of this order along with relevant circulars including the circular dated 27th November, 2007 for compliance by the respondent no.3.

With the aforesaid directions, writ petition stands disposed of. However, there will be no order as to costs.

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

(Saugata Bhattacharyya, J.)