

OD-6

WPO 34 of 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SUMAN KUMAR BISWAS
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date : 9th April, 2021.

Appearance:
Mr. Shakti Pada Jana, Adv.
...for petitioner.

The Court : This matter relates to drawing of higher scale of pay upon securing post graduate qualification as governed by the West Bengal Schools (Control of Expenditure) Act, 2005 read with the Government Order bearing no. 593 dated November 27, 2007.

The petitioner in this case, assails an order dated December 27, 2019 which had negated the petitioner's claim for higher scale of pay on the basis of the Government Order bearing no. 593 dated November 27, 2007.

It is also to be noted that the petitioner had already enrolled for the postgraduate course, prior to joining the post of an Assistant Teacher in the year 2010. Furthermore, the petitioner made his application on December 24, 2010, which was forwarded to the District Inspector of Schools (SE), Kolkata. No reply was received by the petitioner or the authorities. Subsequently, the petitioner also took the examinations and successfully secured the post-graduate degree.

By an order and judgment delivered on March 25, 2021 in **W.P.A 14468 of 2013 (Animesh Choudhury -v- State of West Bengal & Ors.)** I had held that an Assistant Teacher who had previously enrolled in the post graduate course prior to his employment as an Assistant Teacher need not take prior permission for appearing in the examinations of the said course from the competent authority as mandated by the notification dated November 27, 2007.

In the light of a similar factual matrix, I find that the ruling rendered in **Animesh Choudhury (supra)** is squarely applicable in this case as well.

In light of the same. I set aside the impugned order dated December 27, 2019 and direct the authorities to give higher scale of pay to the petitioner from the date following the last date of the final examination of the postgraduate course. The authorities shall do so within a period of four weeks from the date of communication of this order.

In view of the above this writ petition is also disposed of on the same basis as ***Animesh Choudhury (supra)***.

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.)

SK.