

24.08.2022
Court No.13
Item No.33
AP

WPA 879 of 2022

**Pritinath Sarkar
Vs.
The State of West Bengal and Ors.**

Mr. Washef Ali Mondal

... For the Petitioner.

Mr. Bhaskar Prasad Vaisya
Mr. Sagnik Chatterjee

... For the State.

Mr. Syed Nazmul Hossain
Mr. Syed Raihanul Hossain

... For the Respondent No.6.

Learned counsel for the State, Mr. Bhaskar Prasad Vaisya, has filed a report issued by the District Inspector of Schools (SE), Dakshin Dinajpur and the same is taken on record.

It appears from the report that the petitioner joined the Balurghat L.M.A.U. Vidyalaya as an Assistant Teacher on 1st July 1986 after due approval of the District Inspector of Schools. The petitioner joined with B.A. (Special Honours in Bengali). Then the management of the school had given prior permission to the petitioner to complete a Master Degree in Bengali which he did. On 5th August 1993 (the date of publication of the result), according to the District Inspector of Schools, postgraduate scale was sanctioned and paid to the petitioner by the managing committee of the school.

According to the counsel for the District Inspector of Schools, the prior permission of the State or even intimation to the District Inspector of Schools about the postgraduate scale of the petitioner was not given.

The petitioner superannuated from service on 31st May 2021. At the time of processing his pension papers, the District Inspector of Schools has objected to a delayed communication of the Headmaster of the School seeking post facto approval of the postgraduate scale given to the petitioner.

This Court has carefully considered the report of the District Inspector of Schools (SE), Dakshin Dinajpur. There is some substance in the submission of Mr. Vaisya, learned counsel for the State, since the District Inspector of Schools has himself referred the issue for guidance to the Commissioner of School Education, the Commissioner of School Education should be allowed to take a call in the matter first.

However, considering the objection of the District Inspector of Schools and the fact that the petitioner has retired from service nearly more than one year ago and is without pension, this Court proceeds to decide the propriety of the postgraduate scale granted to the petitioner.

The entitlement to a postgraduate scale upon a teacher acquiring a postgraduate degree having joined a graduate/honours post is a right conferred on an Assistant Teacher under the ROPA 1998, ROPA 2009. The question of any prior permission of the District Inspector of Schools, therefore, for the petitioner to entitle him to postgraduate scale upon acquiring a postgraduate degree, did not and could not arise. However, the District Inspector of Schools' contention is that at least his office ought to have been informed by the school cannot be brushed aside. The omission is excused and the school is warned against repeating this conduct in future.

Given the fact that the petitioner was, in fact, lawfully entitled to a postgraduate scale, the school shall immediately process the pension papers of the petitioner. The Office of the District Inspector of Schools shall approve, ex-post facto, postgraduate scale of pay to the petitioner in terms of this order. The matter need not be considered afresh by the Commissioner of School Education.

The District Inspector of Schools (SE), Dakshin Dinajpur and the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal shall process and ensure issuance of PPO to the petitioner, after compliance with all

formalities. Dakshin Dinajpur mandatorily and positively within a period of one month from date.

With the aforesaid directions, the writ petition is disposed of.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)