

W.P.A. 2774 of 2020

Dolly Maity
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Sk. Intiaj Uddin
...for the petitioner

In spite of service of notice upon the learned advocate representing the State-respondents no one appears today. Affidavit-of-service filed on behalf of the petitioner is taken on record.

The grievance of the petitioner is that the concerned respondent authority while sanctioning post graduate scale of pay in her favour sanctioned higher scale with effect from 15th March, 1993 instead of 19th December, 1992 being the date following the last date of M.Sc. Part-II examination though petitioner is entitled to receive such benefit from 19th December, 1992 in terms of Government order being No. 253-Edn. (B) dated 17th September, 1984.

Petitioner joined the school as an assistant teacher on 21st April, 1988 with B.Sc. (Honours) in Mathematics qualification and accordingly pay of the petitioner was sanctioned in honours graduate scale. Subsequently, petitioner enhanced her educational qualification in the relevant subject by obtaining M.Sc. degree in mathematics from the University of Calcutta and Part-II

examination ended on 18th December, 1982. On approach being made, to the District Inspector of Schools (SE), Howrah being respondent no. 3 for sanctioned of post graduate scale of pay the said respondent no. 3 by issuing memo dated 15th May, 2018 sanctioned such higher scale of pay with effect from 15th March, 1993 whereas claim of the petitioner was to sanction the benefit of higher scale of pay with effect from the date following the last date of M.Sc. Part-II examination.

Being aggrieved by such decision of the respondent no. 3 as contained in memo dated 15th May, 2018 the petitioner made representation to the respondent no. 3 dated 25th September, 2019 for sanctioning benefit of higher scale with effect from 19th December, 1992 being the date following the last date of M.Sc. Part-II examination and such prayer of the petitioner was spurned by the respondent no. 3 by issuing memo dated 28th November, 2019 whereby it has been decided by the respondent no. 3 that claim of higher scale of pay needs to be sanctioned from the date of improving such qualification. Therefore, according to the respondent no. 3 it needs to be sanctioned in favour of the petitioner with effect from 15th March, 1993 being the date of publication of result.

The petitioner has questioned such decision of the respondent no. 3 as contained in memo dated 15th May, 2018 and in the subsequent memo dated 28th November,

2019 and has claimed sanction of higher scale of pay with effect from 19th December, 1992 being the date following the last date of M.Sc. Part-II examination.

Mr. Ekramul Bari, learned counsel representing the petitioner while questioning the decision of the respondent no. 3 has placed reliance on Government order no. 253-Edn (b) dated 17th September, 1984 and the decision of the coordinate Bench dated 25th June, 2013 passed on a writ petition being WPA 21914 of 2012 (Susanta Pandit Vs. The State of West Bengal & Ors.).

This Court has heard the learned advocate representing the petitioner and perused the materials available on record.

The question arises for consideration is whether petitioner is entitled to receive the benefit of post graduate scale of pay with effect from the date of publication of the result of M.Sc. Part-II examination or from the date following the last date of M.Sc. Part-II examination. Here in the instant case the final result of M.Sc. Part-II examination was published on 15th March, 1993 and the date following the last date of M.Sc. Part-II examination is 19th December, 1992.

While considering the decision taken by the respondent no. 3 it appears that the benefit of post graduate scale of pay was sanctioned in favour of the petitioner with effect from date the publication of result in terms of ROPA-1990 Rules without considering the

clarification which has been made by the Education Department vide Government order dated 17th September, 1984. It has been specifically clarified in the said Government order dated 17th September, 1984 that date of obtaining higher qualification will count from the date following the last date of examination both theoretical and practical - subject to the condition that the incumbent concerned comes out successful in the said examination.

In addition thereto, it appears in **Susanta Pandit** (supra) a coordinate Bench also on placing reliance on the said Government order dated 17th September, 1984 has decided the issue thereby directing to grant benefit of higher scale of pay in favour of the teacher not from the date of publication of result but from the date following the last date of final examination.

It appears that the respondent no. 3 has failed to take into consideration the clarification which has been made in the Government order dated 17th September, 1984. Accordingly, the decision of the respondent no. 3 relating to grant of post graduate scale of pay with effect from the date of publication of the result of M.Sc. Part-II examination i.e. 15th March, 1993 stands set aside upon quashing the memo dated 28th November, 2019 issued by the respondent no. 3 and modifying the memo dated 15th May, 2018 issued by the respondent no. 3. The concerned respondent authorities are directed to

sanction post graduate scale of pay in favour of the petitioner with effect from 19th December, 1992 being the date following the last date of M.Sc. Part-II examination within a period of 8 (eight) weeks from the date of communication of this order.

Accordingly, the writ petition stands disposed of.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)