

ML- 18.08.2022
342 Ct.15
rkd

W.P.A. 4361 of 2021

Kamal Pal

-vs-

The State of West Bengal & Ors.

Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Ms. Dipa Acharyya,
Mr. Arka Nandi

....for the petitioner.

Mr. Ranjan Saha

....for the State.

Petitioner is an Assistant Teacher who was appointed in a Government aided recognized school on 15th February, 2001. At the time of his appointment petitioner was not having B.Ed qualification. As per norms petitioner was required to obtain B.Ed qualification within five years from the date of his appointment.

Petitioner enjoyed consecutive four incremental benefits till the year of 2005 but not for acquiring B.Ed qualification the increment of the petitioner was stopped from 1st February, 2006 to 1st February, 2007 as per ROPA 1998 rules. However, while fixing pay of the petitioner under ROPA 2009 rules the incremental benefits which was not allowed to the petitioner from 1st February, 2006 to 1st February, 2007 was granted in consideration of acquiring B.Ed qualification in 2007. It has been stated in paragraph 5 of the writ

petition that though petitioner took admission in B.Ed course for the sessions 2005-2006 but the examination was held in 2007 and the result was published in the same year.

According to the petitioner in terms of Government order dated 30th July, 2009 he is entitled to get the incremental benefits uninterruptedly notwithstanding obtainment of B.Ed qualification within five years from the date of his appointment since it has been provided in the said Government order dated 30th July, 2009 that due to pendency of Court cases within the stipulated time of five years teachers could not complete B.Ed course. It was also provided therein that as one time measure the benefit of increments in connection with B.Ed degree was allowed to the teachers upto 2012.

In addition thereto reliance has been placed by the petitioner on an unreported judgment dated 10th March, 2022 passed by this Court on WPA 4813 of 2018 (Smt. Pali Bhowmick-vs- The State of West Bengal & Ors.). It has been submitted that this Court while disposing of the writ petition by order dated 10th March, 2022 granted the incremental benefits in spite of not having B.Ed degree during the relevant period in consideration

of the said Government order dated 30th July, 2009.

Lastly, it has been submitted that the objection raised by the Assistant Director of Accounts at page 44 of the writ petition against grant of incremental benefits from 1st February, 2006 to 1st February, 2007 is not tenable in view of the said Government order dated 30th July, 2009 and for extending the benefit of 18 years continuous service there is no need to recast pay of the petitioner on withdrawal on such incremental benefits for the period from 1st February, 2006 to 1st February, 2007 since petitioner was entitled to enjoy the same in accordance with law. Accordingly, petitioner has prayed for extension of 18 years service benefits in his favour without interfering with the sanction of incremental benefits for the said period from 1st February, 2006 to 1st February, 2007.

Mr. Saha, learned advocate appears on behalf of the respondents and has defended the observations/objections raised by the Assistant Director of Accounts in the matter of grant of 18 years service benefits to the petitioner. On placing reliance on the report filed on behalf of the State respondents it has been submitted in reference to

one letter dated 31st August, 2021 of the Assistant Director of Accounts addressed to the District Inspector of Schools (SE), Kolkata that benefit of Government order dated 30th July, 2009 is available to those teachers who were unable to complete their B.Ed course during last three years preceding the date of issuance of said Government order dated 30th July, 2009. According to the State respondents since the period of five years completed on 14th February, 2006 therefore the petitioner is not entitled to get the incremental benefits relating to B.Ed degree for the period of 1st February, 2006 to 1st February, 2007.

This Court has heard the learned advocates representing the parties and perused the pleadings exchanged by the parties including the materials available on record.

Since the petitioner was appointed in the post of Assistant Teacher on 15th February, 2001 and completed B.Ed course for the session 2005-2006, this Court does not find any impediment in granting the benefit of Government order dated 30th July, 2009. By the said Government order dated 30th July, 2009, it has been unequivocally provided that due to pendency of Court cases for last three years the teachers were unable to even get

themselves admitted to the B.Ed course in the colleges approved by the NCTE and therefore as one time measure the relaxation relating to acquiring B.Ed qualification within a period of five years from the date of appointment was granted upto 2012.

The stand taken by the State respondents as it emanates from the report filed in the form of affidavit cannot be countenanced since it has been interpreted in a way which has not been contemplated in the said Government order dated 30th July, 2009. Attempt has been made to confine the benefit of the Government order dated 30th July, 2009 to only those teachers who were unable to complete their B.Ed in last three years preceding the date of issuance of said Government order dated 30th July, 2009 as it appears.

In addition thereto, this Court on previous occasion by passing order dated 10th March, 2022 on a writ petition being WPA 4813 of 2018 (Smt. Pali Bhowmick -vs- The State of West Bengal & Ors.) has already granted identical benefit in favour of the teacher based on the said Government order dated 30th July, 2009 in spite of the fact that teacher was unable to obtain B.Ed qualification within the period of five years.

In view of aforesaid discussion, the objections raised by the Assistant Director of Accounts being the respondent no.8 as it appears from page 44 of the writ petition stand set aside.

The concerned respondent authorities are directed to extend 18 years service benefit to the petitioner without interfering with the incremental benefit which has been granted to the petitioner for the period from 1st February, 2006 to 1st February, 2007 within a period of eight weeks from the date of communication of this order.

With the aforesaid direction, 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.)