

01-12-2022
Item No.6
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.3791 of 2020

Shri Jayanta Ghatak

-vs-

The State of West Bengal & Ors.

Mr. Gazi Faruque Hossain
Ms. Priyanka Mondal ...for the
petitioner

Md. T.M. Siddiqui
Mr. Pinaki Bhattacharyya ...for the State

The petitioner was appointed as an accountant in Ram Krishna Mission Blind Boy's Academy (School Education), Narendrapur on August 1, 2003 at the scale of pay of Rs.3350-90-3800-100-4700-125-6325 plus other allowances as admissible. Seeking enhancement of the pay scale, the petitioner approached this court by way of a writ petition being WP No.2657(W) of 2018. The writ petition was disposed of by a single Judge of this court directing the authority concerned to dispose of the representation of the petitioner by a reasoned order. In accordance with the order passed, the Director of Mass Education Extension & Ex-officio Additional Secretary, MEE & LS Department, Govt. of West Bengal disposed of the representation of the petitioner by passing the following order:-

"In compliance with the Hon'ble High Court passed on 18.01.2019 by His Lordship Hon'ble Justice Shekhar B. Sharaf in W.P. No.26257(W) of 2018 in the matter of Sri Jayanta Ghatak – vs- the State of West Bengal and Others, after giving the petitioner the opportunity of hearing, the matter is disposed of allowing the petitioner the scale of pay to Rs.4000-8850/- (unrevised) corresponding to revised Pay Band No.3 (Rs.7100-37600/-) with Grade Pay of Rs.3600/-, with effect from the date of institution of the writ petition, i.e. 21.12.2018. The petitioner, however, shall be entitled to notional benefit of higher scale of pay and also

incremental pay from the date of his appointment, which shall be relevant for the purpose computation of his retiral dues.”

Learned counsel for the petitioner by referring to an order dated September 3, 2019 passed by a Division Bench of this court in FMA No.1794 of 2018 (Samir Roy v. State of West Bengal & Ors.) submits that the appellant therein circumstanced at the position as that of the petitioner has been allowed the higher scale of pay from the date of joining of his service. Learned counsel also submits that this order of the Division Bench neatly applies to this case on hand.

It appears that in compliance with the order dated September 3, 2019 passed by the Division Bench in FMA No.1794 of 2018, the Director of Mass Education Extension, West Bengal allowed the higher scale of pay to the appellant, Samir Roy, from the date of his joining.

Mr Siddiqui, learned advocate appearing for the State, submits that since the Division Bench order dated September 3, 2019 prevails over the similar subject, the State cannot take any stand contrary to the Division Bench order.

Having heard learned counsels appearing for the parties and on consideration of the Division Bench order dated September 3, 2019 passed in FMA No.1794 of 2019, I think that the prayers made by the petitioner should be allowed.

Accordingly, the writ petition is allowed by the following order.

The order dated March 28, 2019 passed by the Director of Mass Education Extension & Ex-Officio Addl. Secretary, Mass Education Extension & Library Services

Department, West Bengal is hereby set aside.

The second respondent, the Director, (MME), Department Mass Education Extension and Library Service Directorate, Government of West Bengal, is directed to allow the petitioner the scale of pay of Rs.4000-8850 (unrevised) corresponding to revised Pay Band 3, Rs.7100-37600/- with Grade Pay of Rs.3600/- with effect from the date of joining, that is August 1, 2003.

Arrears of pay if not paid to the petitioner, the second respondent shall pay the arrears commensurate with the aforesaid pay scale to him, within eight weeks from the date of communication of this order.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Rabindranath Samanta, J]

