

29.06.2022
Court No. 13
Item No. 461
SB

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 3731 of 2016

Kaushik Saha
-versus
The State of West Bengal & Ors.

Mr. Dilip Kumar Maiti ... for the petitioner

Mr. Supriyo Chatto padhyay
Mr. Sabyasachi Mondal
... for the State

The petitioner seeks Post Graduate Degree pay scale for being employed for Post Graduate on 25.01.2006. The last date for M.A. Part-II Examination was on 23.09.2005, i.e. prior to coming into force of the West Bengal Schools (Control of Expenditure) Act, 2005.

The petitioner was appointed as an Assistant Teacher through the West Bengal School Service Commission on 21.09.2001 at Bali Gandhi Memorial High School, P.O. Bali, Dist. – Murshidabad. The petitioner claims that since he has acquired the M.A. qualification by reason of the last date of Part –II Examining falling before the coming into force of the West Bengal Schools (Control of Expenditure) Act, 2005 the provisions thereunder, cannot be a bar to claim higher pay-scale.

The petitioner relies upon a decision of a co-ordinate Bench of this Court in the case of **Pampa Das vs. the**

State of West Bengal & Ors. reported in **2012(1) CLJ (Cal)**

349. The said decision is cited in support of the proposition that prior permission of the District Inspector of School is not necessary for acquiring higher qualification and consequently for claiming a higher pay scale. The decision may not be relevant in the instant case, since the District Inspector of School himself has given permission to the petitioner for higher pay scale.

One cannot lose sight of the fact that the ROPA 1998 has prescribed that the pay scale of any teacher in the State shall be governed by their educational qualification. Admittedly, the petitioner has a post graduate degree.

Unfortunately for the petitioner, the ROPA 1998 Rules have been clarified by the Government vide G.O. No. 155-SE(B) dated 13.07.1999 wherein it has been stipulated that the pay of an assistant teacher is to be fixed as per the qualification for the posts specified by the West Bengal School Service Commission and not otherwise. The said clarificatory Memo dated 13.07.1999 stands in the way of the petitioner's claim. The aforesaid view has been upheld by a decision of this Court in the case of *The District Inspector of Schools (S.E.), Murshidabad & Ors. vs. Md. Mainul Islam & Ors.* being MAT 1119 of 2018 dated 09.02.2021.

A copy of the said judgement is retained with the records.

In view of the above no relief can be granted to the petitioner.

The writ petition is accordingly, dismissed.

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

(Rajasekhar Mantha, J.)