

02.02.2022
Item No. 40
Crt.No.11
b.r.

WPA 6546 of 2020
with
IA No. CAN 1 of 2020 (Old No. CAN No. 5312 of 2020)

Gargi Chatterjee (Das)
-vs-
The State of West Bengal & Ors.

(Via video conference)

Mr. Tapas Kumar Dey
Mr. Ashis Kumar Dutta
..... for the petitioner.

The grievance of the petitioner is that the petitioner was initially appointed as Assistant Teacher in the Durgapur Bhadreswari Agricultural High School (Higher Secondary), Howrah on 16th of September, 2009. As per the order of appointment, the petitioner has reported her duty. Subsequently, the petitioner had obtained MA degree in Geography and Environment Management under Distance Mode from Vidyasagar University on 8th of June, 2012. After obtaining M.A. degree, the petitioner has applied for grant of higher scale. The request of the petitioner was forwarded by the School Authority to the Additional District Inspector (ADI) of School (SE) vide letter dated 14th of February 2017. After receipt of the request of the School Authorities, the ADI of School vide letter dated 14th of September, 2017 directed to submit further documents as mentioned in the said letter. As per the direction of the ADI of School, the necessary

documents have been submitted to the ADI vide letter dated 4th of May, 2018. In spite of submission of all the documents, the District Inspector of Schools has failed to consider the request of the petitioner for grant of higher pay scale in spite of having knowledge, the petitioner has acquired higher qualification, i.e. MA in Geography. As District Inspector of Schools has failed to consider the request of the petitioner, the petitioner has filed the instant writ application.

Heard the submission of the petitioner and perused the documents.

Admittedly, the petitioner was appointed as Assistant Teacher in Geography and subsequently, the petitioner has obtained MA degree in Geography. After obtaining MA degree, the petitioner has applied for grant of higher scale of pay and the school authorities are recommended the case of the petitioner before the District Inspector of Schools but the District Inspector of Schools failed to consider the request of the petitioner as well as the recommendation of the school authorities and the same is still pending.

Heard the submissions made by the learned Counsel for the petitioner and the judgement passed by the Co-ordinate Bench of this Court in WPA 14468 of 2013 (Animesh Chowdhury -vs- The State of West Bengal & Ors.). The Co-ordinate Bench while disposing of the

writ petition has referred the judgement passed by the Hon'ble Division Bench in the case of State of West Bengal –vs- Megnath Roy (MAT 514 of 2019) dated 16th of December, 2019. In which the Hon'ble Division Bench of this Court as held as follows:-

“ Undoubtedly, the writ petitioner, at the time of joining the present school was already pursuing the higher studies and the Managing Committee of the present school had permitted him to pursue such course without affecting academic interest of the institution. **Section 14(3), as it stands, does not require any prior permission to be taken for obtaining higher qualification. However, manner in which a teacher must be entitled to higher scale of pay upon acquiring post-graduate degree is indicated in the Government Order dated 27th November, 2007.**

We do not find any guideline which the District Inspector of Schools is required to follow in the event it is found that a teacher before joining in the institution was already pursuing his higher studies but for some unavoidable reasons, permission as contemplated under G.O. dated 27th November 2007 was not sought for from the District Inspector of Schools or the Managing Committee failed to take steps in this regard. **We have also not found out any relevant Rules which sets out any guideline as to the factors to be taken into consideration by the D.I. either in allowing**

or disallowing higher scale of pay upon obtaining higher qualification. Possibly, these are the difficulties for which the communication dated 8th June, 2017 was made from the Deputy Director of School Education to the District Inspector of Schools to refer such cases where the said authorities are facing difficulties.

There cannot be any doubt that a person with higher qualification would be expected to have better knowledge in the subject and the students are likely to be benefited by reason of the higher qualification of a teacher. The benefit of higher qualification is not only restricted to monetary benefit of the teacher but is also extended to the students and the institution in which he is working as a teacher. It would be the endeavour of all schools to have academic excellence and it is the duty of the welfare State to encourage academic excellence in all the institutions since the ultimate beneficiary would be the students with focus on all registrations which are student-centric. **We feel that same guideline should be in place to decide a case like the present one as absence of any such guidelines may lead to arbitrariness.**

We are not unmindful of the fact that the West Bengal Schools (Control and Expenditure) Act, 2005 was enacted to provide for the control of expenditure in the schools in West Bengal and unless the authorities are of the opinion that such expenditure towards payment of the higher

salary of a teacher would be a futile exercise or would not be beneficial to the schools or the students, the authorities may decline payment of higher scale of pay. Higher scale of pay would encourage the teacher and would be a motivating factor which ought not to be ignored. The consideration for not denying higher scale of pay could be that, already there are sufficient number of teachers having Honours/post-graduate degree on the same subject in the institution and, as such, payment of higher scale of pay would not be a burden on exchequer, **We also observe that the relevant Rule does not prevent the authorities from giving an ex-post-facto approval if occasion so arises.....”**

“20. Subsequent to the decision rendered in **Meghnath Roy (supra)**, the same Division Bench in its decision of **Md. Adeel-Uz-Zaman –v- State of West Bengal (MAT 825 of 2020)** dated February 11, 2021, reiterated the need for guidelines to be framed by the State for District Inspectors of Schools (S.E.) to decide such cases wherein teachers were demanding the post-graduate/higher scale of pay and the factors that would be taken into consideration for either allowing or rejecting such claim for a higher scale of pay upon securing post-graduate qualifications. In between the dates the two decisions were rendered, no such set of guidelines have been framed or to the limited extent of this writ petition, have not been placed before this Court.

21. Further more, the important point that needs to be highlighted is, based on the Division Bench decisions rendered in **Meghnath Roy (supra)** and **Md. Adeel-Uz-Zaman (supra)**, an **ex-post facto approval** of a higher scale of pay is not barred under sub-section (3) of Section 14 of the 2005 Act.”

In view of the above, the respondent no.3/the District Inspector of Schools (S.E.) is directed to consider the representation submitted by the petitioner taking into consideration of the judgement as referred to above and to grant the higher scale of pay to the petitioner within a period of six weeks from the date of communication of this order.

WPA 6546 of 2020 along with the connected application being CAN 1 of 2020 (Old No. CAN 5312 of 2020) are disposed of.

There will be no order as to costs.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)