

02.08.2022.
Court No.13
Item No. 590
pk

W.P.A. No. 8016 of 2011

**Bhakta Das Mondal
Versus
The State of West Bengal & Ors.**

Mr. Kazi Sajjad Alam

...For the petitioner.

Mr. Nayan Ghosh Dastidar

..For the State.

Affidavit-of-service filed by the learned advocate for the petitioner in Court today be kept with the record.

The petitioner has filed the present writ petition for a direction upon the respondent authorities to grant higher scale of pay to the petitioner as the petitioner has enhanced his qualification in the relevant subject and group that is to say he has acquired an M. A. in History. The petitioner passed B.A. (Hons) in History in the year 1987 from the University of Burdwan. The petitioner completed B. P. Ed. Examination in the year 1989 from the same University. Thereafter the petitioner also obtained M. A. in History from Burdwan University through correspondence course in the year 2000.

After being duly selected, the petitioner was given appointment on 21st October, 1997 to the post of Assistant Teacher as B. A.(Hons) in History with B. P. Ed. in the Satberia High School (H.S.), Hooghly. The petitioner's appointment was duly approved by the

District Inspector of Schools (SE), Hooghly. The petitioner passed M. A. in history in the year 2000 from the Burdwan University through distance/correspondence course without affecting his duties and with permission from the school authority. After obtaining Post Graduate degree in the relevant subject and group that is to say M. A. in History, the petitioner on 10th July, 2001 made a representation before the authority for grant of higher scale of pay in his favour. The respondent authority on 9th January, 2004 forwarded the claim of the petitioner before the Director of School Education (SE), the respondent no. 2 for grant of higher scale of pay.

Mr. Kazi Sajjad Alam, learned advocate appearing for the petitioner, relied on the decision passed by the Hon'ble Division Bench of this Court reported in **2013(2) CHN (Cal.) 565 (Samir Kumar Saha Vs. State of West Bengal and others)**; on another Hon'ble Division Bench decision reported in **2013(2) CHN (Cal.) 632 (Akhtar Hossain Chowdhury Vs. State of West Bengal and others)** as well as on the learned Single Bench decision reported in **(2013) 3 WBLR (Cal.) 856 (Nibir Kumar Som Vs. State of West Bengal and others)**.

Mr. Alam also relied on the Hon'ble Division Bench decision reported in **2015(1) Calcutta Law Journal, 24 (Smt. Nita Dey Chandra Vs. State of West Bengal and others.)** to argue that the petitioner

is entitled to higher scale of pay on account of being similarly situated as the petitioners in the abovementioned decisions.

Considering the submissions advanced by the learned advocates for the respective parties and after perusing the records, this Court is in concurrence with the view taken by the Hon'ble Division Bench in the case of **Samir Kumar Saha** (supra), **Akhtar Hossain Chowdhury** (supra) as well as **Smt. Nita Dey Chandra** (supra) and the learned Single Bench of this Court in the case of **Nibir Kumar Som** (supra) that since the petitioner enhanced his qualification in the relevant subject and group through distance/correspondence course without effecting and/or hampering the duties in the school, therefore, the petitioner is entitled to enjoy higher scale of pay as he has enhanced his qualification in the relevant subject and group that is to say M.A. in History.

That being the position, in my considered view, it would be a futile exercise if this matter is sent for consideration by the concerned District Inspector of Schools as the issue is settled on the basis of the above mentioned decisions.

Therefore, in my opinion, the claim of the petitioner for grant of higher scale of pay for improving academic qualification in the relevant subject and group through distance/correspondence course cannot be denied by the authorities as he has already

improved his qualification without disturbing and hampering the business of the school.

For the aforesaid reasons, I direct the respondent no. 3, the District Inspector of Schools (SE), Hooghly and the respondent no. 4, the Additional District Inspector of Schools (SE), Arambag Sub-Division, Hooghly to take appropriate steps to sanction the benefit for the higher scale of pay to the petitioner for having acquired Post Graduate degree in M. A. History through distance/correspondence course and to fix the petitioner's scale of pay from the following date of the last date of examination i. e. 31st December, 2000 and disburse the necessary amount to the petitioner without any further delay but positively within a period of eight weeks from the date of communication of a copy of this order.

In view of the above observations, the impugned order dated 31st March, 2011 being Memo No. 258/1-(4) L. C./1C-LS/496/10 passed by the respondent no. 2 is hereby set aside and quashed.

With this direction, this writ petition is allowed.

There will be no order as to costs.

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

(Rajasekhar Mantha, J.)

