

29.06.2022.
Item No. 462.
Court No.13
pk

W.P.A. No. 7457 of 2016

**Nupur Sikdar
Versus
The State of West Bengal and others**

Mr. Tapas Kumar Majumdar,
Mr. Partha Pratim Bhattacharya
...for the petitioner.

Ms. Chaitali Bhattacharya,
Mr. Kartik Chandra Kapas
... for the State.

The writ petitioner is aggrieved by an order dated 17.02.2016 passed by the D. I. of Schools(SE), South 24 Parganas.

The petitioner joined the Bhangar Balika Vidyalaya (HS) as a physical education teacher in a pass graduate degree post on 11th July, 2011. She had already undertaken the first year examination before she entered service, and completed her final examination in June 2011. The petitioner, admittedly did not obtain any prior permission of the Competent Authority, being the Managing Committee of the school or the D.I. of Schools, before undertaking the post-graduate qualification/course. The D. I. of Schools in the impugned order, applied the Control of Expenditure Act, 2005, and the G.O. No. 593 dated 27.11.2007 denying the higher pay scale to the petitioner.

Counsel for the petitioner relies upon a circular of the School Education Department, Government of West Bengal, dated 19th May, 2014. The said circular

clarifies G.O. No. 593 above only to indicate the circumstances under which leave should be allowed to teachers seeking higher qualification. The other provisions of bar against seeking higher pay scale and prior permission of the DI remains unchanged.

Counsel for the petitioner next draws the attention of the Court to the career advancement schemes and related issues under which teachers and librarians of the schools who have improved qualifications in the subject relevant to the ones they were teaching, and were given higher pay scales with effect from 1st January, 1986. The said provisions cannot have any manner of application post the 2005 Act and the Circular No. 593.

Reference in this regard is also made to a decision of the Co-ordinate Bench of this Court dated 30th November, 2015, passed in W.P. 3866(W) of 2015 wherein higher pay-scale was allowed in terms of Rules 16(3) of ROPA 1999 including paragraph 12(3) of ROPA 1998. The said decision would have no manner of application to the instant case. The claim of the petitioner was rejected by the D.I. of Schools in the instant case on the basis of G.O. No. 593 dated 27.11.2007, and the provisions of the Control of Expenditure Act, 2005.

Similarly inapplicable is the decision of **Smt. Nita Dey Chandra Vs. State of West Bengal & Ors.** reported in **2014 SCC On Line Cal 22730** (D.V.). The said decision was also rendered in the context of the

rules framed under the ROPA 1998, and by reference to a circular dated 12.02.1999. The said circulars precede the Control of Expenditure Act, 2005, and the Government Order No. 593 dated 27.11.2007 referred to hereinabove.

The Memo No. 593 in anyway clearly removes from its purview all applicants who are holding pass category posts as specified in Clause 4 thereto. The petitioner's arguments are even otherwise therefore not sustainable.

For the reasons stated hereinabove, no relief can be granted to the petitioner.

The writ petition fails and is hereby dismissed.

(Rajasekhar Mantha, J.)