

23.06.2023
Court No.13
Item No.28
AP

**WPA 10130 of 2022
With
IA NO: CAN 1 of 2023**

**Narayan Baidya
Vs.
State of West Bengal & Ors.**

Mr. Biswarup Biswas

... For the Petitioner.

Mr. Ujjal Ray
Mr. Sk. Abdur Rahim

... For the Teacher-in-Charge.

Mr. Bhaskar Prasad Vaisya
Mr. Nilay Baran Mondal

... For the State.

Re: CAN 1 of 2023

1. This Court notes that the applicant/current Teacher-in-Charge of the School has filed this application seeking recall of this Court's order dated 25th July, 2022 allowing postgraduate scale to the petitioner.

2. It is argued by Mr. Ray that the two circulars referred to in the order i.e. dated 3rd June, 2002 and 26th December, 2005 issued by the School Education Department, Government of West Bengal, apply only to those candidates, who were selected through the School Service Commission.

3. Admittedly, the petitioner has been appointed in the school as an Assistant Teacher by the Managing Committee and before the School Service Commission came into force.

4. It is argued that if the purport and scope of the two circulars is carefully examined, the writ petitioner would not have been entitled to the postgraduate scale.

5. Counsel for the writ petitioner/respondent in this application places several decisions of Single Bench, Division Bench as well as a Special Bench to the effect that the benefit of postgraduate scale, as granted to the writ petitioner, is payable in terms of the two aforesaid circulars even to Assistant Teachers appointed by the Managing Committee of the school and not only to those appointed by the School Service Commission particularly in an Honours Graduate Post/Postgraduate Posts.

6. It is also argued by the counsel for the petitioner that the locus of the applicant/current Teacher-in-Charge, is wholly suspect. It is submitted that not only has the order been given effect to but the writ petitioner is receiving the postgraduate scale.

7. It is clarified at this stage that the postgraduate scale availed and received by the writ petitioner shall abide by the result of the instant application.

8. The State is required to be heard.

9. Let copies of the application, opposition and reply filed by the writ petitioner and the private respondent/applicant be made over to the counsel for the State, Mr. Vaisya.

10. Let this matter stand adjourned and be listed on 7th July, 2023.

11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)