

21 16.09.2022  
rkd Ct.15

W.P.A. 10128 of 2019

Susila Mondal

-vs-

State of West Bengal & Ors.

Mr. Arjun Ray Mukherjee,  
Mr. Debapriya Mitra,  
Mr. Joyjeer Medhi

....for the petitioner.

Mr. Sanjib Das

....for the State.

The writ petition pertains to grant of postgraduate scale of pay in favour of the petitioner who was appointed in the post of Assistant Teacher in a Government aided recognised High School on 28<sup>th</sup> January, 2008 with the educational qualification of B.A. (Honours) in English in Language Group.

The learned advocate representing the petitioner has submitted that at the time of her appointment she had completed Part-I examination in connection with higher studies for obtaining postgraduate qualification in English from a recognized University through correspondence course. After appointment of the petitioner on 28<sup>th</sup> January, 2008 with the permission of the school authority petitioner participated in Part-II examination which commenced on and from 17<sup>th</sup> October, 2008. Ultimately petitioner obtained

postgraduate qualification in English and in support of the same the certificate issued by the University is annexed to this writ petition at page 20.

It has also been submitted that since the petitioner was sanctioned honours graduate scale of pay at the time of her appointment with effect from 28<sup>th</sup> January, 2008 therefore on acquiring postgraduate qualification in the relevant subject she is entitled to receive the benefit of postgraduate scale of pay from the date following the last date of M.A. Part-II examination which ended on 24<sup>th</sup> October, 2008.

It has further been contended on behalf of the petitioner that the prior permission as contemplated under the Government order dated 27<sup>th</sup> November, 2007 is not required since the petitioner enrolled herself in the higher course of studies prior to her date of appointment on 28<sup>th</sup> January, 2008 and in this regard reliance has been placed on the judgment dated 11<sup>th</sup> February, 2021 passed by the Hon'ble Division Bench on an intra Court appeal being MAT 825 of 2020 (Md. Adeel Uz Zaman Vs. The State of West Bengal & Ors.).

The state respondents are represented by the learned advocate who has submitted that on

the prayer being made by the petitioner through her school authority for sanction of postgraduate scale of pay one memo was issued by the Deputy Director of School Education (GA), West Bengal addressed to the Additional District Inspector of Schools (S.E.), Purulia dated 6<sup>th</sup> June, 2017 seeking views of the said ADI, Purulia on sanction of postgraduate scale of pay in favour of the petitioner.

It has been submitted on placing reliance on the said memo dated 6<sup>th</sup> June, 2017 that the issue is under process and soon a decision to be taken by the authority relating to entitlement of the petitioner to receive postgraduate scale of pay.

This Court has heard the learned advocates representing the parties and perused relevant materials available on record.

From the facts of the case as narrated above, it appears that the petitioner enrolled herself in higher course of studies for obtaining postgraduate qualification in English from a recognized University prior to her appointment on 28<sup>th</sup> January, 2008 and subsequently, she completed postgraduate course on 24<sup>th</sup> October, 2008 and the result was published on 19<sup>th</sup> May, 2009.

In view of obtaining postgraduate qualification in relevant subject on completion of higher course of studies which she commenced prior to her date of appointment and completed after date of appointment and in consideration of sanction of honours graduate scale of pay in favour of the petitioner from the date of her appointment, this Court finds that there is no requirement to obtain permission from the concerned District Inspector of Schools (S.E.) Purulia in terms of the Government order dated 27<sup>th</sup> November, 2007 as decided by the Hon'ble Division Bench in **Adeel Uz Zaman** (supra). The relevant part of the said judgment is quoted below:

*“There cannot be any doubt that the appellant was appointed on 21<sup>st</sup> July, 2019 in Science and Maths Group against a sanctioned vacancy and at the relevant point of time he had only B.Sc. Honours degree in Chemistry. It was on the basis of such qualification he was appointed as a Science Teacher in Chemistry of the said college. This appointment letter shows that the authority concerned was aware of all facts that he was pursuing higher studies. In fact, the document disclosed clearly reveals that he had completed his part-I examination in*

*M.Sc. and was pursuing his higher studies. It is in the backdrop of such fact that we need to consider the Government Order dated 27<sup>th</sup> November, 2007. Clause 1 of the said order is applicable when the teacher concerned is yet to enroll himself in the course and to appear in the examination for enhancement of education qualification. The very fact that he had already enrolled himself prior to his appointment and that he had already participated in the said examination and successfully completed M.Sc. part-I, in our considered opinion he is not required to obtain any prior permission to enroll himself for the purpose of appearing in the future examination for enhancement of his educational qualification as contemplated in clause 3 of the Government Order dated 27<sup>th</sup> November, 2007. In such view of the matter the decision cited by the Government Pleader passed by a learned Single Judge in **Purna Chandra Misra (supra)** has no manner of application.*

.....

*In the present case appellant is in receipt of honours graduate of pay, staff pattern cannot be a bar for extending the benefit of post*

*graduate scale of pay. We also observe that the relevant Rule does not prevent the authorities from giving an ex-post-facto approval if occasion so arises.”*

In view of aforesaid consideration and placing reliance on the ratio of the judgement of **Adeel Uz Zaman** (supra), this Courts directs the Commissioner of School Education, West Bengal, to take decision on sanctioning postgraduate scale of pay to the petitioner within a period of twelve weeks from the date of communication of this order upon granting opportunity of hearing to the petitioner or her representative as well as the school authority where petitioner is working and the concerned District Inspector of Schools (S.E.), Purulia and to pass an order and the same shall be communicated to the petitioner within one week thereafter.

However, it is made clear that absence of prior permission as contemplated under Government order dated 27<sup>th</sup> November, 2007 relating to the higher studies of the petitioner which she completed on 24<sup>th</sup> October, 2008 shall not be a relevant consideration while deciding the entitlement of the petitioner to receive postgraduate scale of pay.

With the above observation and direction,  
the writ petition stands disposed of.

However, there shall be no order as to  
costs.

Urgent photostat certified copy of the order,  
if applied for, be given to the parties, upon usual  
undertakings.

**(Saugata Bhattacharyya, J.)**