

05. 12.04.2022
BD Ct.15

W.P.A. 8695 of 2016

Sk. Azizul Haque

-vs-

The State of West Bengal & Ors.

Mr. S.P. Pahari

Mr. Tapan Kumar Mahapatra

... for the petitioner.

Ms. Chaitali Bhattacharya

Mr. Kartick Chandra Kapas

... for the State

The writ petitioner is an Assistant Teacher in Moregram Zakir Hossain High Madrasah, District-Burdwan (for short the said “Madrasah”), who has been accorded approval being an organising teacher in upgraded section of Class IX and X of the said Madrasah with effect from 4th July, 2014 by the District Inspector of Schools (S.E.), Burdwan, vide memo dated 10th March, 2015. Such approval memo was issued by the District Inspector of Schools (S.E), Burdwan, respondent no.5 pursuant to the order passed by a Co-ordinate Bench on 4th July, 2014 on a Contempt Rule being W.P.C.R.C.475(W) of 2014.

Mr. S.P. Pahari, learned advocate, representing the petitioner submits that the petitioner is aggrieved by such order of approval since the approval has been accorded in favour of the petitioner with effect from 4th July, 2014 wrongly and such approval ought to have been accorded from the date when the said Madrasah was upgraded from junior high to high i.e., in 1996.

Accordingly, petitioner has claimed grant of approval in his favour from the date of upgradation of the said Madrasah.

In order to find out whether at the time of upgradation of the said Madrasah vide memo dated 7th March, 1996 issued by the concerned authority of West Bengal Board of Secondary Education posts of Assistant Teachers in the upgraded section were lying vacant or not, this Court directed the State respondents to file a report on creation of posts upon such upgradation of the said Madrasah.

Pursuant to such direction passed by this Court District Inspector of Schools (S.E.) Burdwan, has submitted a report before this Court from where it appears that on such upgradation of the Madrasah three posts were created for Class IX and another three posts were created for Class X, altogether six posts were sanctioned by the concerned State respondents. It has further been reported since the newly accorded posts of Assistant Teachers on upgradation were not forwarded to the concerned State respondents no decision could be taken for filling up these posts.

On granting opportunity to the petitioner to file exception to such report the same has been filed today in Court which is taken on record wherefrom it appears that the writ petitioner filed one writ petition being W.P.16787 (W) of 1997 which was disposed of by a Co-ordinate Bench on 4th December, 1997 upon recording the facts that the names of six candidates were forwarded by the

said Madrasah to the respondent no. 5 for approval and the Co-ordinate Bench directed the respondent no.5 to take decision on the claim of the petitioner relating to grant of approval from the date of upgradation of the said Madrasah. Therefore it has been contended on behalf of the petitioner that the plea taken by the respondent no. 5 for not considering the petitioner for grant of approval since his name was not forwarded by the said Madrasah at the material point of time is not tenable.

This Court has heard learned advocates appearing for the parties and also perused the relevant materials available on record wherefrom it appears that the District Inspector of Schools by issuing Memo dated 10th March, 2015 sanctioned approval in favour of the petitioner with effect from 4th July, 2014 whereas claim has been lodged by the petitioner for grant of approval from the date of upgradation of the said Madrasah since he was working as Organizing Assistant Teacher in the upgraded section prior to upgradation of said Madrasah. Such issue as it appears from the impugned approval memo dated 10th March, 2015 issued by the respondent no. 5 has not been taken into consideration while taking decision to grant approval with effect from 4th July, 2014. In addition thereto, it further appears that no cogent reason has been assigned when approval for appointment has been accorded in favour of the petitioner with effect from 4th July, 2014 and not from the date of upgradation of the said Madrasah.

In view of the above discussion and since the order of the respondent no. 5 as contained in memo dated 10th March, 2015 is bereft of any reason the same stands set aside to the extent of granting approval to the petitioner with effect from 4th July, 2014 and the Director of Minority Affairs and Madrasah Education, Kolkata, is directed to take a fresh decision on entitlement of the petitioner to get approval of his appointment as an Assistant Teacher of the said Madrasah in upgraded section with effect from the date of upgradation of the said Madrasah and to pass a reasoned order after granting opportunity of hearing to the petitioner and the representative of the said Madrasah within a period of twelve weeks from the date of communication of this order. However it is made clear that for all purposes petitioner shall be considered as an approved Assistant Teacher, only the respondent no.7 shall decide from which date such approval to be given effect to.

The decision to be taken by the Director of Minority Affairs and Madrasah Education, being the added respondent no. 7 shall be communicated to the petitioner within two weeks thereafter. It is made clear that if the respondent no.7 decides in favour of the petitioner and grants approval of appointment from the date of upgradation of the said Madrasah consequential steps shall be taken by the State respondents for extending the benefits pursuant to such order.

With the above direction the writ petition stands disposed of. However, there shall be no

order as to costs.

Advocate on record of the petitioner is granted liberty to amend the cause-title and add the Director of Minority Affairs and Madrasah Education as an additional respondent upon amending the cause title of the writ petition.

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

(Saugata Bhattacharyya, J.)