

13-06-2022
ct no. 13
Sl. 9
sp

WPA 19795 of 2018

Tulsi Mahato

-Versus-

The State of West Bengal & Ors.

**Mr. Shibal Acharya,
Mr. Sougata Mitra,
Mr. Rameswar Sinha,
Mr. Swagatam Deb**

....for the petitioner

**Mr. Supriya Chattapadhyay,
Ms. Iti Dutta**

.....for the State

The petitioner joined service in the school as school teacher in Language Group on November 3, 1997.

The petitioner seeks higher pay being Post Graduate Scale of pay, after having acquired Post Graduate Degree sometime in the year 2003.

Admittedly, the permission of the D.I. of Schools was not taken for acquiring higher qualification. Such permission/concurrence is required to enable the State to ascertain as to whether it would in any way be benefited from the higher qualification being acquired by the petitioner.

Since no permission from the State has been sought, the need of the State for a higher qualified employee remains unascertained and

undetermined. There is therefore no benefit to the State from the petitioner's higher qualification. It is for inter alia this purpose and to address the anomaly between the right to higher scale pursuant to higher qualification that the "Control and Expenditure Act" was brought into force by the State in 2005. In light of the larger perspective and the entitlement and benefit of higher pay-scale pursuant to higher qualification under the aforementioned Act, this Court is of the view that the petitioner may not be entitled to higher pay scale for higher qualification.

However, the learned counsel for the petitioner has placed a judgment of a Division Bench of this Court dated January 31, 2014, passed in WP 14760 (W) of 2004 (Rabi Kanta Barman Vs. State of West Bengal). It has been held that an Assistant Teacher appointed in a Graduate Scale of Pay, would be entitled to higher Post Graduate Pay Scale, if he acquires such qualification with the permission of the school, even if no permission has been granted by the State (D.I. of Schools).

This Court is bound by the said decision of the Division Bench.

In that view of the matter, WPA 19795 of 2018 is allowed, directing the respondent to grant

higher Post Graduate Scale of Pay to the petitioner from date.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)