

197 (ML)
26.07.2022
Court. No.15
b.das

W.P.A. 19133 of 2019
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CAN 1 of 2020 (Old CAN 5059 of 2020)
+
CAN 2 of 2022

**Ranaghat OBR Brihattara Graduate
Teachers' Association & Anr.
Vs.
The State of W.B. & Ors.**

Mr. Siddhartha Shankar Mondal
Mr. Anindya Bose
Mr. Chandrachur Chatterjee
Mr. Diptendu Mandal
Mr. Nikhil Gupta

.....for the Petitioners.

Ms. Chaitali Bhattacharya
Mr. K. C. Kapas

...for the State

This writ petition is taken up for hearing in presence of the learned Advocates representing the petitioner association and the State respondents.

Mr. Siddhartha Shankar Mondal, learned Advocate representing the petitioner association has drawn attention of this Court to Memo dated 16th September, 2019 issued by the Principal Secretary to the Government of West Bengal, School Education Department whereby, it has been submitted that attempt has been made to treat the members of the petitioner association as the teachers of upper primary section (Class V to VIII) thereby their right to function as Assistant Teachers in normal section (Class V to X) got affected.

It is submitted by Mr. Mondal that since the members of the petitioner association were appointed before appointment procedure which is 1st SLST-2016 and at the time of appointment of the members of the petitioner association, there was no creation of three sections – Upper Primary, Secondary and Higher Secondary.

By no stretch of imagination, the members of the petitioner association should be treated as teachers of upper primary section. It has further been submitted that at the time of appointment of the members of the petitioner association, there was only scope to be appointed as an Assistant Teacher of normal section or Higher Secondary section. Members of the petitioner association, in the present case were appointed in normal section, therefore, they should be treated as the teachers of normal section.

Ms. Chaitali Bhattacharya, learned Advocate representing the State respondents on instruction has submitted that the impugned Memo dated 16th September, 2019 was issued only for maintaining data of the existing teachers working in different sections and to identify the teachers who are working in upper primary section and the posts lying vacant in the said section. There was no intention on the part of the State respondents to demote the members of the petitioner

association from Assistant Teacher of normal section to the Assistant Teacher of upper primary section.

It has been specifically submitted on behalf of the State respondents that the said Memo dated 16th September, 2019 was not issued to curtail the accrued right of the members of the petitioner association. Before 2016, the members of the petitioner association were appointed in normal section which includes Classes V to X. Therefore, the members of the petitioner association were serving in their respective sections in upper primary level (Classes V to VIII) as well as in Classes IX and X. It has also been submitted that for determination of required number of teachers in upper primary level Memo no.214-SSE/19 dated 16th September, 2019 was issued which will not change the service condition of the petitioner association.

In view of such submission being made on behalf of the State respondents, it has been made amply clear that the grievance of the members of the petitioner association as has been ventilated in this writ petition, stands redressed and they cannot be demoted from their status as Assistant Teacher in normal section to the Assistant Teacher of upper primary section.

For all purposes, the members of the petitioner association, who were recruited prior to 1st SLST-2016 shall be treated as the teachers of normal section and they shall be permitted by the respective school

authorities to function accordingly. The Memo dated 16th September, 2019 issued by the Principal Secretary is for ascertaining the number of vacancies in upper primary section and for maintaining data of teaching staff working in different categories throughout the State of West Bengal.

With the above observation, the writ petition being WPA 19133 of 2019 is disposed of.

The applications, if pending, also stand disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Saugata Bhattacharyya, J.)