

ML- 03.08.2022
282 Ct.15
rkd

W.P.A. 22711 of 2019

Haradhan Sarkar

-vs-

The State of West Bengal & Ors.

Mr. Gourav Das,
Mr. Arup Sarkar

....for the petitioner.

Ms. Chaitali Bhattacharya,
Mr. Kartick Chandra Kapas

....for the State.

Petitioner is an Assistant Teacher who was appointed with educational qualification of B.Com B P Ed in 1991 in a school in Uttar Dinajpur and was sanctioned pass graduate scale of pay. Subsequently, he enhanced his qualification on acquiring master degree in Education in 2006. Thereafter petitioner was transferred to the post of Assistant Teacher in a school in Birbhum with effect from 17th December, 2014.

Petitioner claims postgraduate scale of pay for obtaining master degree in Education in 2006. It needs to be mentioned here that vide Memo dated 16th March, 2017 the District Inspector of Schools (SE), Uttar Dinajpur allowed postgraduate scale of pay to the petitioner with effect from 1st December, 2007 notionally and actual benefit was accorded in his favour with effect from 1st January, 2017. However, on finding that the petitioner

obtained qualification in non-relevant subject and in consideration of the relevant provisions under the West Bengal Schools (Control of Expenditure) Act, 2005 the said District Inspector of Schools (SE), Uttar Dinajpur on issuing the Memo dated 21st March, 2017 has kept in abeyance the Memo dated 16th March, 2017 whereby inadvertently postgraduate scale of pay was accorded in favour of the petitioner with effect from 1st January, 2017.

Mr. Das, learned advocate representing the petitioner has submitted that the petitioner is entitled to receive postgraduate scale of pay since he enhanced his qualification in 2006 and in consideration of such enhancement the District Inspector of Schools (SE), Uttar Dinajpur accorded postgraduate benefits vide memo dated 16th March, 2017 with effect from 1st January, 2017 (financial benefits).

Ultimately, the issue has been decided by the Commissioner of School Education being the respondent no.2 by issuing Memo dated 27th August, 2018 pursuant to the order passed by a coordinate Bench on 1st May, 2018 on a writ petition being W.P. 1858(W) of 2018 preferred by the petitioner.

The State respondents are represented by

Ms. Bhattacharya, learned senior Government advocate who has defended the decision of the Commissioner of School Education on the score that petitioner obtained postgraduate degree in non-relevant subject therefore such acquisition of higher qualification does not make him entitled to receive postgraduate scale of pay.

In addition thereto, it has also been submitted on behalf of the State respondents that in terms of Government order no.57-SE(S) dated 27th January, 1995 if any arrangement is made by the school authority providing opportunity to the petitioner for taking six classes in a week in the subject in which petitioner enhanced his qualification such arrangement has to be approved by the concerned District Inspector of Schools but in the present case the same is not accorded.

This Court has heard learned advocates representing the parties and perused the order of respondent no.2.

It appears that petitioner was appointed as an Assistant Teacher in Work Education and Physical Education Group with qualification B Com B P Ed and accordingly, his pay was fixed in pass graduate scale of pay. On the basis of acquiring postgraduate qualification in Education though

petitioner has claimed higher scale of pay but it appears that there is no contemplation in the relevant circular dated 27th January, 1995 to sanction postgraduate scale of pay in favour of the petitioner if there is no approval of the concerned District Inspector of Schools relating to arrangement of taking six classes per week in Education in which petitioner obtained higher qualification.

In addition thereto no such case has been made out in the writ petition that the petitioner was taking more than six classes in a week in Education and the same arrangement was in the academic interest of the institution and accordingly that was approved by the concerned District Inspector of Schools (SE), Uttar Dinajpur.

There is also a specific bar under Section 14(2) of the West Bengal Schools (Control of Expenditure) Act, 2005 which provides if a teacher is appointed with pass graduate qualification and accordingly pay has been fixed in pass graduate scale he shall not be entitled to claim any additional increment or higher scale of pay for acquiring qualification other than the qualification specified for such post.

In view of aforesaid legal restrictions, this

Court does not find that the petitioner is entitled to enjoy postgraduate scale of pay for acquiring qualification in Education which is not the relevant subject of teaching in consideration of nature of appointment made in favour of the petitioner in 1991.

Accordingly, this Court does not find any infirmity in the order passed by the respondent no.2 and the same stands confirmed resultantly the writ petition stands dismissed.

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.)