

47 10.02.2022
rkd Ct.15

W.P.A. 30810 of 2014
(Through Video Conference)

Md. Rafique Ahmed

-vs-

The State of West Bengal & Ors.

Md. Manuwaj Ali

....for the petitioner.

In the present writ petition challenge has been thrown to the Memo No.20/C.C dated 21st January, 2014 issued by the District Inspector of Schools, Secondary Education, Murshidabad whereby the said District Inspector of Schools, being respondent no.3 spurned the prayer of the writ petitioner for granting Post Graduate Scale of pay for acquiring Master Degree in English which admittedly is not the relevant qualification of the writ petitioner considering his appointment as Assistant Teacher in Work Education and Physical Education group.

Mr. Ali, learned advocate representing the petitioner submits that the petitioner was appointed with effect from 24th January, 1990 in the post of Assistant Teacher with educational qualification of B.A. P.Ed. in Work Education and Physical Education group and such appointment was duly approved by the respondent no.3 vide

Memo dated 21st May, 1990. Subsequently, petitioner enhanced his qualification by acquiring Master Degree in English from North Bengal University and the result of Part-II examination was published in the year 2003. It is also the case of the petitioner that since he was taking more than six classes per week in English in terms of the Circular Letter No.57-SE(S) dated 27th January, 1995, he is entitled to receive Post Graduate Scale of pay.

Since such benefit of higher scale of pay was not accorded to the petitioner he filed writ petition being WP 7849(W) of 2013 which was disposed of by a coordinate Bench on 5th August, 2013 by directing the respondent no.3 herein to take decision on entitlement of the writ petitioner to receive Post Graduate Scale of pay. Pursuant to such direction of the coordinate Bench of 5th August, 2013, the respondent no.3 took up the issue and passed order rejecting the claim of the petitioner by issuing Memo dated 21st January, 2014 which has been questioned in the present writ petition. The decision of the respondent no.3 as contained in the Memo dated 21st January, 2014 is quoted below:

“ In compliance with the order of the Hon’ble High Court as referred

to the above the prayer of the petitioner pertaining to extend the benefit of Post Graduate Scale of pay has been examined.

On perusing the available papers in this regard it appear that the petitioner joined the post of assistant teacher on 24.01.1990 in Work Education and Physical Education group with qualification B.A.P.Ed. This office approved the appointment of the petitioner under memo no.1012-G dated 21.05.1990. Subsequently he obtained Master Degree in English from North Bengal University for which the result was published in the year 2003.

The Managing Committee of the school had adopted a resolution in its meeting no 22 dated 13.06.2009 wherein the petitioner was allowed to enjoy study leave for the M.A. Examination pursuant to the order of the administrator of the school.

Under the aforesaid circumstances the prayer of the petitioner for sanctioning the Post Graduate Scale of pay could not be considered for the reasons as stated below:-

- 1. The petitioner has obtained Master Degree in English which is not relevant subject as he was*

approved to the post earmarked for Physical Education teacher.

2. *At present no vacant post in normal section can be filled up by way of placement of some approved teacher occupying any teaching post in the said section since that will contravene memo no.844/(8)-LS dated.11.11.2011.*
3. *As per G.O. No.548-SE dated 24.06.1997, the petitioner is required to obtain prior permission for appearing at M.A Examination through the Managing Committee, administrator or Ad-hoc Committee of the school as the case may be from the concerned District Inspector of Schools (SE).*
4. *As per ROPA Rules 98 only those teachers who has improved/will improve their qualification relevant to their teaching subject are entitled to Post Graduate Scale of Pay”.*

This Court has perused the reasons

assigned by the respondent no.3 while taking decision not to grant Post Graduate Scale of pay to the petitioner and this Court does not find fault with the reasoning of the respondent no.3. In addition thereto entitlement of a teacher to receive Post Graduate Scale of pay for acquiring qualification in non-relevant subject is guided by Circular Letter No.57-SE(S) dated 27th January, 1995 which prescribes an arrangement to be made by the School authority where the teacher is working which would permit the said teacher to take at least six classes per week in the subject in which the teacher concerned has obtained Post Graduate Degree and there is a specific provision in the said Circular that the arrangement has to be made for the academic interest of the institution and with the prior permission of the concerned District Inspector of Schools.

Considering such provision as contained in the Circular Letter No.57-SE(S) dated 27th January, 1995 this Court has made a query to Mr. Ali whether there is permission of such arrangement by the concerned District Inspector of Schools but this Court does not get any satisfactory answer from the side of the petitioner.

It also does not escape notice of this Court

that in terms of Clause-12(3) of ROPA 1998 a teacher is entitled to receive higher scale of pay only for obtaining higher qualification in the relevant subject. In the present case since the petitioner has obtained Post Graduate qualification in 2003 and ROPA 1998 which comes into play from 1996-1997 also debars the petitioner from getting the benefit of Post Graduate Scale. Since there is no prior permission/approval by the respondent no.3 in support of the arrangement made by the School Authority whereunder petitioner is taking six classes as contemplated under the Circular Letter No.57-SE(S) dated 27th January, 1995 and the aforementioned provision of ROPA 1998 goes against the petitioner's entitlement to receive Post Graduate Scale of pay for acquiring Master Degree in non-relevant subject (English), the writ petition stands dismissed.

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.)