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07.03.2022.
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Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A. 688 of 2021

Swapan De
-versus
The State of West Bengal & Ors.

Mr. Arkadipta Sengupta
Ms. Prisanka Ganguly
... For the petitioner

Mr. Subir Kr. Saha, Ld. A.G.P.
Mr. Bikramaditya Ghosh
... For the State

The petitioner is aggrieved by the order dated 1st April, 2019 passed by the Assistant Secretary, School Education Department whereby his prayer for higher scale of pay has been rejected.

The impugned order is of only one line which mentions that the Government in School Education Department regrets its inability to accede to the proposal for grant of higher scale of pay in favour of the petitioner.

No reason whatsoever has been mentioned as to why the prayer of the petitioner stood rejected. Reasons ought to have been mentioned for rejection, more so because the Commissioner of School Education as back as on 17th July, 2012 was of the view that the prayer of the petitioner for grant of higher scale of pay may be considered.

The petitioner acquired the higher qualification in the year 1997 /1998 after the managing committee of the School

permitted him to pursue and enhance his educational qualification. Study leave was granted in his favour.

The District Inspector of School (S.E.) was also of the opinion that the petitioner would be entitled to receive the higher scale of pay and, accordingly, forwarded the proposal to the higher authority.

At this stage, if the prayer of the petitioner for higher scale of pay is rejected, then certainly the reason for rejection becomes very important. Non-furnishing of reason stands in the way of deciding whether the adjudicating authority proceeded in the right direction or not. It is not clear as to whether there was any proper application of mind. The said action cannot stand the test of reasonableness.

In view of the above, the impugned order of rejection dated 1st April, 2019 is set aside and quashed.

The matter is remanded back to the respondent no. 4 being the Commissioner of School Education, West Bengal to revisit the issue and pass a necessary order with regard to the prayer of the petitioner for grant of higher scale of pay strictly in accordance with the rules/ guidelines/ circulars prevailing on the date the petitioner obtained his higher qualification.

The matter shall be decided at the earliest but positively within a period of eight weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, after completion of all legal formalities.

(Amrita Sinha, J.)