

29.07.2022
Court No.13
Item No.30
AP

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

WPA 2037 of 2022

Nibedita Sanyal

Vs.

The State of West Bengal and Ors.

Mr. Sakti Pada Jana
Mr. Subhajyoti Das

... For the Petitioner.

Mr. Swapan Kumar Dutta
Mr. Pradyot Kumar Das

... For the State.

The petitioner is aggrieved by the order dated February 22, 2022, passed by the Commissioner of School Education, denying her the higher scale of pay.

Admittedly, the petitioner got enrolled in a Post-Graduate Course before joining her post as the Assistant Teacher of the School on 08.09.2008. After joining service, the petitioner acquired a post-graduate degree. She thereafter applied for higher scale of pay. It was held that in terms of G.O.593, dated November 27, 2007, prior permission of the DI was necessary for the purpose of pursuing such post graduate course.

Counsel for the petitioner relies upon the decision of this Court dated September 22, 2021, passed in WPA 1044 of 2021 as also the judgment

of this Court dated February 11, 2021, delivered in MAT 825 of 2020 with CAN 1 of 2021. Counsel for the petitioner submits that the G.O.593-SE(B), dated November 27, 2007 is binding on the respondents.

Placing reliance on the decision of the Division Bench of this Court delivered in **MAT 825 of 2020 with CAN 1 of 2021 (Md. Adeel Uz Zaman - vs - The State of W.B. & Ors.)**, dated February 11, 2021, it is submitted that a similarly circumstanced person who got enrolled in a post graduate course prior to his engagement as an assistant teacher did not seek any such approval. The aforesaid decision was followed by this Court in the case of **Golam Khaja Farid - vs. - The State of West Bengal & Ors. (WPA 1044 of 2021)**.

Counsel for the State submits that the decision that G.O.593-SE(B), dated November 27, 2007 mandates approval of the DI, both at the time of admission to the post-graduate course and also for the purpose of examination. However, this Court is bound by the decision of a Division Bench of this Court delivered in Md. Adeel Uz Zaman (supra) in which case the DI of Schools allowed the post graduate scale of pay to the said Md Adeel Uz Zaman in terms of the order of the Division Bench.

The petitioner shall be paid all arrears for the difference between graduate honours scale of pay and post graduate scale of pay from the date of appointment till date, within a period of 4 months from date. The pay and allowances of the petitioner shall be refixed with retrospective effect from March 17, 2011.

Refixation of pay scale must be effected by the school immediately, and forwarded to the D.I. of Schools (SE), South 24 Parganas, for further action within a period of 4 weeks from date. Arrears payable to the petitioner, may also be calculated by the school for the benefit and refixation thereof by the D.I. of Schools (SE), South 24 Parganas.

With the aforesaid directions, the writ petition stands disposed of.

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.)