

OD-07

ORDER SHEET
WPO/551/2019
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

GOUTAM KARMAKAR
-VS-
THE STATE OF WEST BENGAL & ORS.

BEFORE:
HON'BLE JUSTICE RAJASEKHAR MANTHA
DATE: 21ST JUNE 2022.

APPEARANCE:
Mr. S.P. Jana, Adv.; Mr. S. Das, Adv., for petitioner.
Ms. C. Bhattacharyya, Adv.; Mr. S. Roy Chowdhury, Adv., for State.

THE COURT: The petitioner is aggrieved by the order dated March 30, 2018, passed by the DI of Schools, South 24-Parganas, denying him the higher scale of pay.

Admittedly, the petitioner got enrolled in a Post-Graduate Course before joining his post as the Assistant Teacher of the School on August 14, 2010. After joining service, the petitioner acquired a post-graduate degree. He 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 and for the purpose of examination. However, this Court is bound by the decision of a Division Bench of this Court delivered in MAT 825 of 2020 with CAN 1 of 2021 (Md. Adeel Uz Zaman –vs- The State of West Bengal & Ors.), 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.

In that view of the matter, the petitioner in this case shall also be entitled to post graduate scale of pay pursuant to his having acquired the higher qualification. The petitioner shall be entitled to notional fixation of higher pay scale upto 2018. All arrears of high pay scale shall be payable to the petitioner from 2018 till date. In the peculiar facts and circumstances of this case, this Court is not inclined to order any interest in favour of the petitioner.

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

(RAJASEKHAR MANTHA, J)

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