

16.03.2023
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AN/Ct. No.07

WPA 2322 of 2017

**Sekhar Chandra Naskar
versus
State of West Bengal & ors.**

Mr. Soujanya Bandopadhyay
... for the petitioner

Mr. B. P. Vaisya
Mr. Gourav Das
... for the State

The petitioner has challenged an order of the District Inspector of Schools (S.E.), South 24 Parganas dated 09.09.2016 rejecting his prayer for grant of post-graduate scale of pay only on the ground that he has not taken prior permission from the competent authority. The petitioner joined as an Assistant Teacher in the Ray Nagar Khetra Nath Sunil Baran Poura Vidyalaya pursuant to the letter dated 19.11.2013 and his appointment was approved with effect from 23.11.2013. The petitioner subsequently enhanced his qualification and applied before the authorities for grant of post-graduate scale of pay.

Learned counsel for the petitioner relies upon an order dated 11.02.2021 passed by a Division Bench of this Court in MAT 825/2020 in support of his contention and submits that the prayer for higher scale of pay cannot be rejected on the ground of lack of prior permission.

Mr. Das, learned counsel for the State however does not dispute the said proposition laid down by the Hon'ble Division Bench.

Mr. Das further submits that other factors are required to be taken into consideration before arriving at a decision as to whether the petitioner would be entitled to post-graduate scale of pay.

From the order impugned, it does not appear that any aspect other than the issue of prior permission has been gone into by the authority while passing the order dated 09.09.2016.

After hearing the learned advocates for the parties and taking into consideration the decision of the Hon'ble Division Bench in MAT 825 of 2020, this Court holds that the prayer for higher scale of pay could not have been rejected by the authority on the ground that the petitioner did not take prior permission.

For the reasons as aforesaid, the order of the District Inspector of Schools (S.E.), South 24 Parganas dated 09.09.2016 is set aside and quashed. The District Inspector of Schools (S.E.), South 24 Parganas being the 4th respondent in the writ petition is directed to consider the prayer of the petitioner for grant of post-graduate scale of pay to the petitioner after taking into consideration the relevant rules and the decisions on such issue in the light of the observations made hereinbefore. It is needless to mention that while arriving at a decision, the authority

shall afford an opportunity of hearing to the petitioner or his authorized representative and pass a reasoned order which shall be communicated to the petitioner immediately thereafter. The entire exercise shall be completed within a period of 4 weeks from the date of communication of this order.

With the above directions, the writ petition stands **disposed of** however without any order as to costs.

Since it has been submitted by the learned counsel for the petitioner that the erstwhile learned counsel has passed away and he has filed a Vokatnama vide filing no. A-10013 dated 13.06.2022, further compliance as indicated in the Office note dated 05.08.2022, is not necessary.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Hiranmay Bhattacharyya, J.)