
Jitendra Narayan Singh

Vs.

The State of West Bengal & Ors.

Mr. Himadri Barua

Mr. Biswajit Das.

....For the Petitioner

Mr. Supriyo Chattopadhyay

Ms. Iti Dutta.

....For the State

The petitioner is an Assistant Teacher and is working at the post of **Teacher-in-Charge** at one **S. B. Modern High School, Kolkata**. The petitioner had acquired the **Ph.D. degree in 2003** as would be evident from the **Provisional Certificate, Annexure-P4 at page 21** to the writ petition. The petitioner claims higher pay scale along with all the payable increments commensurating with his Ph.D. degree.

Mr. Himadri Barua, learned counsel for the petitioner referring to a communication dated **February 22, 2012** at **page 24** to the writ petition submits that, the relevant school has also made a representation before the respondent no.3 but no attention or heed was paid thereto for granting higher pay scale to the petitioner. Mr. Barua, learned counsel in support of his contention has referred to a judgment of the Division Bench **In the matter of : The State of West Bengal & Ors. -vs. - Gautam Ghosh & Ors.**, rendered in **FMA 2363 of 2015**

(MAT 324 of 2015), Annexure-P7 at page 26 to 32 to the writ petition. He submits that, the petitioner must receive the higher pay scale commensurating with his Ph.D. degree as the law is well settled in the subject.

Ms. Iti Dutta, learned State counsel led by Mr. Supriyo Chattopadhyay, learned Additional Government Pleader appearing for the respondent nos. 1 to 3 submits that, upon verification of all records and documents the issue may be sent for a reasoned order/decision before the respondent no.3.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record it appears to this Court that, to subserve justice it is a fit case in which the respondent no.3 is directed, upon issuing a prior hearing notice of at least seven days to the petitioner and the respondent nos. 4 and 5 and after giving them an opportunity of hearing, to decide the issue in the light of the case made out in the writ petition by passing a reasoned order, in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **six weeks** from the date of communication of this order.

The reasoned order/decision shall be communicated to the petitioner and the respondent nos. 4 and 5 positively within a **further** period of **two weeks** from the date of the said reasoned order to be passed.

While deciding the issue the respondent no.3 shall consider the judgment of the Hon'ble Division Bench ***In the matter of : Goutam Ghosh & Ors. (supra)***, as referred to above, and in the light thereunder shall decide the issue. It is needless to mention that, the respondent no.3 shall consider all the relevant circulars prevailing on the issue.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever documents and provisions of law he wishes to rely upon before the respondent no.3.

It is made clear that, this order shall not create and equity or right in favour of the petitioner if the petitioner is not eligible to receive his claim strictly in accordance with law.

In the event the reasoned order/decision goes in favour of the petitioner, then the respondent no.3 and/or all other authorities shall immediately give effect thereto positively within a period of ***four weeks*** from the date of the reasoned order to be passed.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 4790 of 2020** stands ***disposed of***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)