

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE RABINDRANATH SAMANTA

WPA 9168 of 2021

Promit Kumar Choudhury

...Petitioner

Vs

State of West Bengal and Others

... Respondents

Ms. Debjani Sengupta, Adv.
Mr. Abhijit Chatterjee, Adv.
Ms. Shahina Haque, Adv.
Ms. Koyel Bag, Adv.

... for the Petitioner

Mr. Supriyo Chattopadhyay, Adv.
Ms. Tapati Samanta, Adv.

... for the State

Heard On : 19.04.2023

Judgment on : 06.06.2023

Rabindranath Samanta, J:-

1. Challenge in this writ petition is against an order passed by the Director of Mass Education Extension, West Bengal by which the petitioner's representation seeking higher scale of pay was rejected.
2. Background facts giving rise to the writ petition may succinctly be stated as follows:

The Calcutta Deaf and Dumb School is an educational institution which imparts education to the hearing impaired students

up to Secondary School leaving level. The petitioner Promit Kumar Choudhury was appointed as an Accountant in the school on 18th January, 1999 at the scale of pay of Rs. 1040-1920/- and other allowances. After completion of probation period, the governing body of the school confirmed his service and the Director, Mass Education Extension approved his appointment in the aforesaid scale of pay of Rs. 1040-1920/-. The scale of pay of Rs. 1040-1920/- was allowed to the incumbents holding the post of Junior Clerk in other sponsored institutions. Long after his appointment was approved by the Director of Mass Education Extension, the petitioner came to know that in other similar sponsored institutions, the incumbents holding the post of Accountant are fetching higher scale of pay of Rs. 4000-8850/-. Like the Calcutta Deaf and Dumb School, other sponsored schools namely, Helen Keller Badhir Vidyalaya, Sramik Vidyapith, Banipur State Welfare Home are under the Mass Education Extension Directorate, Government of West Bengal. In Sramik Vidyapith, the Head Clerk/Senior Clerk got the scale of pay of Rs. 4000-8850/- corresponding to the old school of pay of Rs. 1260-2610/-. Similarly, the Head Clerk and the Upper Division Clerk at Banipur State Welfare Home were allowed pay scale of Rs. 4000-8850/- corresponding to the old scale of pay of Rs. 1260-2610/-. In Bangiya Sahitya Parishad under the control of the Department of Mass Education Extension and Library services, the Accountant-cum-Chief Clerk was allowed to scale of pay of Rs. 1260-2610/- corresponding to new scale of pay of Rs.4000-8850/- whereas the petitioner holding the post of Accountant and discharging the similar duties was allowed the scale of pay of Rs. 1040-1920/- corresponding to new scale of pay of Rs. 3350-6250/-. The petitioner also came to know that scale of pay of the Head Clerk-cum-Accountant of the Government School for Blind at Cooch Behar and Raiganj Deaf and Dumb School under the Social

Welfare Department was at Rs. 380-910/- which was revised to the corresponding old scale of pay of Rs. 1260-2610/-.

Considering the nature of duties discharged by the Accountant or Head Clerk-cum-Cashier/Head Clerk-cum-Accountant, the Director, Mass Education Extension requested the Department of Mass Education Extension to grant scale of pay of Rs. 4000-8850/- to the incumbents holding such posts. The Director, Mass Education Extension also informed the Department of Mass Education by Office Note dated 13th April, 2004 that in some schools, incumbents holding the same post were getting pay scale of Rs. 4000-8850/- meant for Upper Division Clerks. Getting no response to the communications made by him, the Director of Mass Education Extension by way of a reminder dated 6th September, 2005 requested the Joint Secretary to the Government of West Bengal, Department of Mass Education Extension to extend the aforesaid higher scale to the incumbents as above. Subsequently, by a letter dated 14th November, 2007, the Deputy Director of Mass Education Extension by an office note recommended for extending the benefit of the scale of pay of Rs. 4000-8850/- to the incumbents holding the post of Accountant, Head Clerk-cum-Cashier, etc. Under such circumstances, the petitioner had reason to believe that the department would grant the scale of pay of Rs. 4000-8850/- to him.

One Samir Roy, the Head Clerk-cum-Accountant of Hellen Keller Badhir Vidyalaya, by moving a writ application being WP No. 30346(W) of 2008 before this court sought for the scale of Rs. 4000-8850/-. By an order dated 16th October, 2015, the writ petition was allowed directing the respondent authority to grant the scale of pay of Rs. 4000-8850/- to him. Similarly, one Tapas Banerjee, Head Clerk-cum-Cashier of Calcutta Deaf and Dumb School, by preferring a writ petition being WP No. 5808(W) of 2016 sought for the similar scale of pay at par with the scale of pay granted to Samir Roy. The writ

petition was disposed of by a learned Single Bench directing the Director of Mass Education Extension to decide the representation of him and to pass a reasoned order. By order dated 8th June, 2016, the respondent no. 2 allowed the scale of pay of Rs. 4000-8850/- to Tapas Banerjee. Be it noted that after Tapas Banerjee retired on 31st October, 2018, the petitioner is discharging the duties of Accountant and Cashier. The post held by Tapas Banerjee is still lying vacant.

One Kamaleshwar Mukhopadhyay, Accountant of Helen Keller Badhir Vidyalaya, by preferring a writ application being WP No. 22793(W) of 2017 sought for the higher scale of pay of Rs. 1210-2610/- (unrevised) corresponding to revised scale of pay of Rs. 4000-8850/-. The writ petition was disposed of by this Court directing the Director of Mass Education Extension to decide the representation of Kamaleshwar Mukhopadhyay by a reasoned order. By order dated 29th January, 2018 passed by the Director of Mass Education Extension, the scale of pay of Rs. 4000-8850/- was allowed to Kamaleshwar Mukhopadhyay.

Seeking the similar scale of pay at par with Kamaleshwar Mukhopadhyay, one Dushmanta Banerjee, the Accountant of Calcutta Blind School moved a writ application being WP No. 9455(W) of 2018 and this Court by disposing of the writ petition directed the Director of Mass Education Extension to decide the representation of the petitioner by a reasoned order. The respondent no. 2, the Director of Mass Education Extension, after considering the representation of Dushmanta Banerjee, allowed the scale of pay of Rs. 4000-8850/- to him. Jayanta Ghatak, Accountant of Narendrapur Ramkrishna Mission Blind Boys Academy moved a writ petition being WP No. 26257(W) of 2018 before this Court and this Court disposed of the writ petition directing the Director of Mass Education Extension to decide the representation of him by a reasoned order. Ultimately, the respondent no. 2, the Director of Mass Education Extension on

consideration of his representation, allowed the scale of pay of Rs. 1210-2610/- (unrevised) corresponding to revised scale of pay of Rs. 4000-8850/- to Jayanta Ghatak as the Accountant of the school. As the similarly circumstanced incumbents holding the post of Accountant have been granted the scale of pay of Rs. 4000-8850/-, the petitioner is also entitled to get the similar scale of pay. Hoping that similar benefit would be extended to him, the petitioner made a representation to the respondent no. 2 through the school authority seeking the scale of pay of Rs. 1260-2610/- (unrevised) corresponding to revised scale of pay of Rs. 4000-8850/-. Getting no response to the representation made by him, he filed a writ petition being WPA 2073 of 2020. The writ petition was disposed of by this Court directing the Director of Mass Education Extension to decide his representation by a reasoned order, but surprisingly, the Director of Mass Education Extension rejected his representation by an order dated 26th February, 2021 communicated vide memo dated 16th March, 2021 without any reasonable classification. As such the order passed by him is liable to be quashed.

Under the aforesaid circumstances, the petitioner, amongst others, prays for the following reliefs:

“a) A Writ of Mandamus do issue commanding the respondents specially respondent no. 2 to cancel, rescind and/or withdraw the Reasoned Order communicated by Memo No. 132/1(6)/AD/E/OM/2/AD/MEEL/20 dated 16th March, 2021 and grant and pay the petitioner the scale of pay of Rs. 1260-2610/- with effect from the date of joining Calcutta Deaf and Dumb School;

b) A further writ of Mandamus do issue commanding the respondents and each one of them to grant and re-fix the salary and allowances of the petitioner at the scale of pay of Rs. 1260-

2610/- with effect from the date of joining Calcutta Deaf and Dumb School on 18th January, 1999 and to re-fix the salaries in the corresponding scale of pay of Rs. 4000-8850/- under the Revision of Pay & Allowance Rules, 1998 and onwards and to take steps accordingly;

c) A further writ of Mandamus do issue commanding the respondents and each one of them to pay arrears, salaries and other consequential benefits to the petitioner consequent to re-fixation of salaries in the scale of pay of Rs. 1260-2610/- with effect from 18th January, 1999, the date of joining Calcutta Deaf and Dumb School and in the corresponding scale of Rs. 4000-8850/- and to take steps accordingly.”

3. In their affidavit-in-opposition, the answering respondent nos. 2 and 3 namely, Director, Mass Education Extension and the District Mass Education Extension Officer, Kolkata state that the petitioner was appointed as the Accountant of the School following the recruitment process in the unrevised scale of pay of Rs. 1040-1920/- corresponding to revised pay of Rs. 3350-6325/-. Long after the approval of his service, the petitioner prayed for higher scale of pay of Rs. 4000-8850/-. The pay and allowances of the petitioner and other employees of the school are governed by the Government Order bearing no. 531-Edn (MEE) dated 30th March, 1999 (Revision of Pay and Allowances Rules, 1998). This Rule came into force notionally with effect from 1st January, 1996 and actually from 1st April, 1997. When the petitioner joined the school on 18th January, 1999, then the Government Order dated 30th March, 1999 was in force and his pay and allowances were governed only by the State Government order in concurrence with the Finance Department order dated 30th March, 1999. Excepting the aforesaid scale of pay, no other scale as per the said order dated 30th March, 1999 is prescribed for the post of Accountant. As per Clause 10(1) of the West Bengal Rules of

Business, no department shall, without previous consultation with the Finance Department, pass any order which either immediately or by its repercussion, will affect the finance of the State. Referring the G.O. dated 30th March, 1999 and Clause 10(1) of the West Bengal Rules of Business, the representation of the petitioner seeking higher scale of pay was rejected. Emphasising that the order as impugned was passed justly, these answering respondents disputing the averments as made in the writ application submit that the writ application is liable to be dismissed with costs.

4. However, the petitioner in his affidavit in reply disputes the averments as made in the affidavit in opposition justifying the impugned order.
5. Learned counsel appearing for the petitioner submits that this Court in a decision rendered on 16th October, 2015 in WP No. 30346(W) of 2008 (Samir Roy vs. State of West Bengal and Others) directed the Director of Mass Education Extension to allow the scale of Rs. 4000-8850/- to Samir Roy, Head Clerk-cum-Cashier of Helen Keller Badhir Vidyalaya. Following this decision, the Director of Mass Education Extension allowed the similar scale of pay to Tapas Banerjee, Head Clerk-cum-Cashier of Calcutta Deaf and Dumb School, who moved this Court by preferring a writ petition. Learned counsel submits that placing reliance on the ratio in Samir Roy, the Director of Mass Education Extension allowed the similar scale of pay of Rs. 4000-8850/- to Kamaleshwar Mukhopadhyay, the Accountant of Helen Keller Badhir Vidyalaya and subsequently, such benefit of scale of pay was extended to Dushmanta Banerjee, the Accountant of Calcutta Blind School and Jayanta Ghatak, the Accountant of Narendrapur Ramkrishna Mission Blind Boys Academy who approached this Court by filing writ applications seeking the similar relief. Learned counsel submits that the petitioner who stands on the same footing as that of Kamaleshwar Mukhopadhyay, Dushmanta Banerjee and Jayanta Ghatak, is entitled to get the similar scale of pay of Rs. 4000-8850/-

under ROPA, 1998. Learned counsel argues that as observed in the decision in Samir Roy, this Court has held that once a case for parity in pay scale is established based on Constitutional principle under Article 14 of the Constitution, the memorandum dated 30th March, 1999 cannot survive. In such context, learned counsel argues that the impugned order vitiated with illegality is liable to be quashed and the relief as sought for by her client should be granted.

6. Per contra, learned counsel appearing for the answering respondents submit that since the petitioner was appointed in the unrevised scale of pay of Rs. 1040-1920/- in terms of the Government Order dated 30th March, 1999 and he exercised option to retain such scale, no other higher scale can be allowed to him. Learned counsel submits that under Clause 10(1) of the Rules of Business, the Director of Mass Education Extension is not authorised to grant any higher scale of pay without previous consultation with the Finance Department. Learned counsel argues that since the petitioner has not acquired any enforceable right, he cannot seek the similar relief which may have been wrongly given to some other persons. Learned counsel further argues that Article 14 of the Constitution is not meant to perpetuate illegality or fraud by extending the wrong decisions made in some other cases. In support of his contention, learned counsel has relied on two decisions in the case of ***State of Haryana and Others vs. Ram Kumar Mann*** reported in ***(1997) 3 SCC 321*** and in the case of ***Basawaraj and Others vs. The Spl. Land Acquisition Officer*** reported in ***(2013) 14 SCC 81***.
7. It appears from the annexures - P/1 and P/2 that the petitioner was appointed as an Accountant of the Calcutta Deaf and Dumb School on 18th January, 1999 in terms of an appointment letter dated 16th January, 1999. As the order according approval to the appointment of some teaching and non-teaching staff of the Calcutta Deaf and

Dumb School (Annexure – P/2) shows, the petitioner was placed in the scale of pay of Rs. 1040-1920/-.

8. It is stated in the writ application that the Directorate of Mass Education Extension, Government of West Bengal made recommendation to the Department of Mass Education, Government of West Bengal that the incumbents holding the post of Head Clerk-cum-Cashier, Head Clerk-cum-Accountant in the sponsored handicapped institutions should be granted the scale of pay of Rs. 4000-8850/-. An Office note dated 23rd July, 2001 made by the Directorate of Mass Education Extension, Government of West Bengal annexed to the writ application reads as under:

“Department of Mass Education Extension is requested to refer to the subject. In Sponsored Handicapped Institutions few Posts with nomenclature of Head Clerk-Cum-Cashier, Head Clerk-Cum-Accountant have been sanctioned by Govt. incumbents holding posts are now enjoying the Pay Scale of Rs. 3350-6325/- prescribed for L.D. Clerk under ROPA-98. Representation from many Schools for sanction of higher pay scale of Rs. 4000-8850/- prescribed for U.D. Clerk are being received.

It may be stated that incumbents holding the aforesaid posts are to undertake the following works:-

Preparation of Bills (Salary Bill, Contingencies Bill preparation of Budget Accounts, Passing of Bills from respective Treasuries, Disbursement of Salaries to the Staff including payment of contingencies to different parties, maintenance of Cash and other different works related to Cash.

In addition the incumbents are to supervise various works relating to proper administration of the Institution.

It is apparent that the incumbents holding the Posts are to shoulder multifarious jobs for proper functioning of Institutions

and those jobs/works are more responsible/greater than that of the works/jobs of a Jr. Clerk.

In the above perspective it is proposed and recommended for sanction of higher pay scale of Rs. 4000-8850/- prescribed for U.D. Clerk Pay scale under ROPA-98 for the aforesaid Post.

Early order is requested.”

9. Later on, the Directorate of Mass Education Extension vide Office note dated 13th April, 2004 made the similar recommendation that the incumbents holding the post of Head Clerk-cum-Cashier-cum-Typist, Head Clerk-cum-Accountant-Typist be allowed the pay scale of Rs. 4000-8850/- as admissible to Upper Division Clerk. This Court finds that the Director of Mass Education Extension vide a memo dated 6th September, 2005 (annexure-P/6) communicated this recommendation to the Mass Education Extension Department, Government of West Bengal, seeking sanction of higher scale of pay of Rs. 4000-8850/- for the incumbents holding the aforesaid posts. Similar was the recommendation by the Director of Mass Education Extension as reflected in the earlier office note.
10. The aforesaid recommendations and the correspondences made by the Directorate of Mass Education Extension to the Mass Education Extension Department, Government of West Bengal clearly manifest that the Directorate of Mass Education Extension considering the nature of work and the responsibility of the incumbents holding the aforesaid posts advocated that the incumbents holding the posts namely, Head Clerk-cum-Typist, Head Clerk-cum-Accountant-cum-Typist, Head Clerk-cum-Cashier-cum-Typist of the recognised Handicapped Institutions should be placed at the aforesaid scale of pay Rs. 4000-8850/-.
11. All the aforesaid documents relied upon by the petitioner unequivocally show that the petitioner has been able to establish that the post of Accountant held by him has the similarity or identity with

the posts as above of the Sponsored Handicapped Educational Institutions under the control of the Directorate of Mass Education as well as the Mass Education Department, Government of West Bengal. It is needless to say that the duties of Accountant discharged by the petitioner are similar to that of the duties of the accountants namely Kamaleshwar Mukhopadhyay, Dushmanta Banerjee and Jayanta Ghatak of the said handicapped institutions.

12. In compliance with the order dated 16th October, 2015 passed by this Court in WP 30346(W) of 2008 (Samir Roy vs. State of West Bengal and Others), the Director, Mass Education Extension, Government of West Bengal granted scale of pay of Rs. 4000-8850/- as per the ROPA, 1998 to Samir Roy, Head Clerk-cum-Cashier of Hellen Keler Badhir Vidyalaya. Later on, in compliance with the order dated 28th April, 2016 passed by this Court in WP 5808(W) of 2016 (Tapas Banerjee vs. State of West Bengal and Others), the Directorate of Mass Education Extension granted the same scale of pay of Rs. 4000-8850/- to Tapas Banerjee, Head Clerk-cum-Cashier of Calcutta Deaf and Dumb School. As reflected by the recommendations made by the Directorate of Mass Education Extension, West Bengal, the post of Accountant stands in the same category as that of Head Clerk-cum-Cashier of the Sponsored Educational Institutions like Hellen Keler Badhir Vidyalaya and Calcutta Deaf and Dumb School.
13. However, the issue relating to granting the aforesaid scale of pay to the Accountant of a Handicapped School has been resolved by this Court in a number of writ petitions being WP No. 22793(W) of 2017 (Kamaleshwar Mukhopadhyay vs. State of West Bengal and Others), WP No. 9455(W) of 2017 (Dusmanta Banerjee vs. State of West Bengal and Others) and WP No. 26257(W) of 2018 (Jayanta Ghatak vs. State of West Bengal and Others). It may be noted that Kamaleshwar Mukhopadhyay was Accountant of Hellen Keler Badhir Vidyalaya, Dusmanta Banerjee was Accountant of Calcutta Blind School and

Jayanta Ghatak was Accountant of Narendrapur Ramkrishna Mission Blind Boys Academy. By order dated 21st December, 2017, the writ petition being WP No. 22793(W) of 2017 was disposed of by this Court directing the Director of Mass Education Extension to consider and dispose of the representation of the petitioner Kamaleshwar seeking higher scale of pay. By passing an order dated 29th January, 2018, the Director of Mass Education Extension disposed of the representation in favour of the petitioner with the following observations:

“It appears from the Government Order no. 531-Edn (MEE) dated 30th March, 1999 that the prescribed scales of pay for Head Clerk-cum-Cashier and Accountant are same.”

14. The Learned Single Judge in the judgment dated 16th October, 2015 rendered in WP No. 30346(W) of 2008 (Samir Roy Vs. The State of West Bengal and Others), has held that the decision of the State Government as reflected in memorandum date 30.03.1999 cannot survive since it affronts the golden doctrine of equality under article 14 of the constitution of India. Accordingly, the petitioner was allowed the higher scale of pay of Rs. 4000-8850/-.The concerned authority in compliance with the aforesaid judgement allowed the higher scale of pay to Samir Roy. As it appears the Director of Mass Education extension, in compliance with the order passed in WP No. 5808 (W) of 2016 (Tapas Banerjee Vs. The State of West Bengal & Ors.) by order dated 08.06.2016 allowed the similar scale of pay of Rs. 4000-8850/- to Tapas Banerjee on reason that this petitioner was similarly circumstanced as that of Samir Roy.
15. As this Bench finds, the Director of Mass Education Extension, in compliance with the order dated 21.012.2017 passed in WP No. 22793 (W) of 2017 (Kamaleswar Mukherjee Vs. State of West Bengal & Ors.) By order dated 29.01.2018 allowed the similar scale of pay of Rs. 4000-8850/- to Kamaleswar Mukherjee, Accountant of Hellen

Keller Badhir Vidyalaya on the reason that as per the government order dated 30.03.1999 scales of pay for Head Clerk-cum-Cashier and Accountant are same. On similar reasoning, the Director of Mass Education Extension extended the same scale of pay to Dushmanta Banerjee, Accountant of Calcutta Blind School and Jayanta Ghatak, Accountant of Narendrapur Ramkrishna Mission Blind Boys Academy by disposing of their representations in compliance of the orders passed by this court in the aforesaid writ petitions.

16. It is not denying the fact that the petitioner stands on the same footing as that of Kamaleshwar Mukhopadhyay, Dusmanta Banerjee and Jayanta Ghatak, all Accountants of Handicapped Schools. But the representation made by the petitioner seeking the similar scale of pay was turned down by the same Director of Mass Education Extension by the impugned order recording the following reasons:

“And whereas the petitioner has joined the institution on 18.1.1999, when the said Government Order dated 30.3.1999 was in force and accordingly was allowed the scale of pay of Rs. 3350-6325/- as prescribed in the said Government Order dated 30th March, 1999. Apart from that, no such scale of pay, as demanded by the petitioner, is prescribed for the petitioner’s post in the said G.O. No. 531-Edn(MEE) dated Calcutta, the 30th March, 1999 issued with the concurrence of the Finance department vide their U.O. No. Group-P (Service) 1053 dated 30.3.99.

And whereas under clause 10(1) of the Rules of Business, No department shall, without previous consultation with the Finance Department, authorise any orders (other than order pursuant to any general delegation made by the Finance Department) which (a) either immediately or by their repercussion, will affect the finances of the State.

And whereas the petitioner in the representation dated 27.09.2019 being Annexure P-18 to the writ petition gave some illustrations or examples for treating him equally. On examination, it appears that the same does not have any concurrence from the Finance Department. Without having concurrence of the Government in the Finance Department, no Government policy can be framed. The case of Samir Roy, Head Clerk-cum-Cashier of Hellen Keller Badhir Vidyalaya, being different in nature, was forwarded to the Finance Department, West Bengal through the Administrative Department and in that case the Finance Department, West Bengal observed that – “In view of the position we may have no other alternative but to comply the latest order of the Hon’ble High Court to avoid contempt. This may not be cited as precedent in future”. The petitioner’s case is related to the Government policy decision, as enshrined in the Government Order dated 30.3.1999. He is getting his salary in the scale of pay in terms of the said Government Order dated 30.3.1999.

And whereas the nature of duties in the post of “Accountant” in which the petitioner belongs and the post of “Head clerk-cum-cashier” are not equal though the scale of pay is the same the said posts have been defined separately in the ROPA Rules, 1998 dated 30th March, 1999.

Now, in contemplation of above, the petitioner is not entitled to the benefit as made in the representation dated 27.09.2019 being Annexure P-18.”

17. While disposing the writ application preferred by Samir Roy, the learned Single Bench at paragraph 20 of the judgment has observed that once case for parity in pay scale is established based on constitutional principles emanating from the equality clause incorporated in Article 14 of the Constitution of India, the decision of

the State Government as reflected in the said memorandum dated 30th March, 1999 cannot survive. That would amount to perpetuating an unconstitutional act.

18. As noted above, based on the decision in Samir Roy, the Director of Mass Education Extension allowed the similar scale of pay of Rs. 4000-8850/- to Kamaleshwar Mukhopadhyay, the Accountant of Hellen Keller Badhir Vidyalaya. Applying the doctrine of equality, the Director of Mass Education Extension also allowed similar scale of pay to Dushmanta Banerjee, Accountant of Calcutta Blind School and Jayanta Ghatak, Accountant of Narendrapur Ramkrishna Mission Blind Boys Academy. In such factual matrix, the petitioner standing on the same footing as that of the aforesaid incumbents cannot be denied the same scale of pay of Rs. 4000-8850/-. This Bench is of the similar view as expressed in the decision in Samir Roy that since the case of parity in pay scale has been established on golden constitutional principles of equality emanating from Article 14 of the Constitution, the decision of the State Government as reflected in the memorandum dated 30th March, 1999 does not survive. In such scenario, the reason assigned in the impugned order by the Director of Mass Education Extension that he is not authorised to pass any order allowing higher scale of pay to the petitioner are not acceptable since such reasons affront the doctrine of equality under Article 14 of the Constitution.
19. Since the petitioner has acquired legally enforceable right to get higher scale of pay on the pedestal of pay parity awarded to the aforesaid incumbents, the decisions as referred to by the learned counsel for the State respondents are not applicable.
20. In view of the above, the impugned order as passed by the respondent no. 2, the Director of Mass Education Extension communicated vide memo dated 16th March, 2021 is vitiated with illegality and the order is liable to be set aside.

21. As observed above, the petitioner is entitled to get pay as per the pay scale of Rs. 1260-2610/- (unrevised) instead of the scale of Pay of Rs.1040 -1920/-. After the ROPA, 1998 came into force he is entitled to get his pay re-fixed at the scale of pay of Rs. 4000-8850/-. As to recovery of arrear pay the Hon'ble Apex Court in the decision in the case of Union of India and Ors. Vs. Tarsem Singh reported in (2008) 8 Supreme Court Cases 648 has held at paragraph 7 that insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.

As it is evident, the petitioner approached this court seeking relief by filing a writ petition being WP No. 2073 (W) of 2020 which was filed on 03.02.2020 Therefore, the petitioner is entitled to get arrear pay commensurate with his pay on re-fixation of pay with effect from 03.02.2020.

22. Accordingly, the writ petition succeeds and the writ petition may be disposed of by the following order:

The impugned order dated 26.02.2021 passed by the Director of the Mass Education Extension, West Bengal communicated by memorandum dated 16.03.2021 is hereby set aside.

The respondents are directed to re-fix the scale of pay of the petitioner at Rs. 1260-2610/- (unrevised) with effect from the date of his joining the Calcutta Deaf and Dumb School on 18th January, 1999 and further re-fix his scale of pay at Rs. 4000-8850/- under ROPA, 1998 within six (06) weeks from date.

After re-fixation of the scales of pay as indicated above, the concerned respondents shall release/disburse the arrear pay to the petitioner commensurate with his pay on re-fixation of the scales of

pay as directed above with effect from 03.02.2017 also within six (06) weeks from the period as stipulated above.

Since the petitioner has retired from service meanwhile, the concerned respondents shall issue revised pension payment order to him commensurate with his aforesaid re-fixed scale of pay immediately after re-fixation of his scale of pay. The concerned respondents shall pay the differential retrial benefits to the petitioner on modified or revised P.P.O within four weeks from the date of issue of such P.P.O.

23. With the aforesaid directions the writ petition stands disposed of.
24. No order as to costs.
25. Parties may act on the Server Copy of this judgment and order duly downloaded from the Official Website of this Court.
26. Urgent Photostat/ certified copies of this judgment, if applied for, be given to the parties upon compliance with all requisite formalities.

(Rabindranath Samanta,J.)