

Items- 08-08-2023
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MAT 554 of 2019

The State of West Bengal & Ors.
Vs.
Pradip Kumar Saha & Ors.

Mr. Avishek Prasad, Adv.
...for the Appellants.

Mr. Manuwar Ali, Adv.
...for the respondent no.1.

1. The issue involved in this appeal has been decided by the coordinate Bench on 6th December, 2019 in ***CAN 7455 of 2019 and CAN 7454 of 2019 in MAT 514 of 2019 (The State of West Bengal & Ors. vs. Meghnath Roy)*** and was subsequently followed in the case of ***Md. Adeel Uz Zaman vs. State of West Bengal and Others*** reported at ***2021 SCC OnLine Cal 293***. In the said decision, we have categorically stated that the DI cannot reject the prayer for higher pay scale on the ground of lack of prior permission.
2. In the instant case, the writ petitioner, at the time of his joining, had the higher qualification and his appointment was approved by the D.I. The order of the Director of School Education was set aside on 7th January, 2016. The said order was accepted by the State. After having accepted the said order, the writ petitioner cannot be denied pension at the Post-Graduate scale of pay.
3. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge. The appeal stands dismissed.
4. The State appellants are directed to issue revised Pension

Payment Order to the writ petitioner within four weeks from date and the differential pension amount consequent upon the revised pension payment order shall be paid within a period of four weeks.

5. All other dues are required to be paid in terms of the order of the learned Single Judge dated 20th September, 2018 within four weeks from date.
6. MAT 554 of 2019 is, thus, disposed of.
7. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)