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Ct-08

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MAT 618 of 2021

with

I.A No. CAN 2 of 2021

The State of West Bengal & Ors.

Vs.

Mahitosh Das & Anr.

Mr. Supriyo Chattopadhyay

Mr. Suman Dey

... For the Appellants/Applicant

Mr. Ekramul Bari

Mr. Siddhartha Sarkar Mandal

Sk. Imtiazuddin

... For the Writ-petitioner/Respondent

The appeal is arising out of the judgment passed by a learned Single Judge on 7th November, 2019 in a writ petition in which the writ petitioner has claimed higher scale of pay upon enhancing his qualification of post graduation in History through a correspondence course offered by the Burdwan University, without prior permission from the concerned District Inspector of Schools (Secondary Education).

Indisputably the petitioner got admission to pursue one year Bridge Course in History on 9th December, 1998 upon obtaining prior permission from the Organising Managing Committee of the concerned school. The school was recognized subsequently i.e. 1st May, 1999 by the West Bengal Board of Secondary Education as junior

high school i.e. upto Class VIII.

The service of the writ petitioner as Organizer Teacher was approved by the District Inspector of Schools concerned on 1st May, 1999. The writ petitioner after successful completion of the Birdge course got admission in M.A course on 27th January, 2000. The school authority on 2nd January, 2003 applied before the District Inspector of Schools (Secondary Education), South 24 Parganas for M.A scale of pay in favour of the petitioner. The District Inspector of Schools (Secondary Education), South 24 Parganas rejected the said prayer on 14th January, 2003 merely on the ground that no prior permission had been sought for before and no prior permission was obtained from the said office and as such the said authority was not in a position to sanction higher scale of pay, if the petitioner passed the examination successfully. The said reason appears to be contrary to the decision of this court in the case of ***Md. Adeel Uz Zaman Vs. State of West Bengal & Ors., reported in 2021 SCC Online Cal 293 : 2021 Lab IC 2074.***

In a similar situation a coordinate bench set aside the order passed by the District Inspector

of Schools and directed the D.I to consider the higher scale of pay afresh. It was reiterated that it would not be open for D.I to reject the prayer of higher scale of pay on the ground of absence of prior permission. However, we make it clear that the appellants has fairly submitted that the West Bengal Schools (Control of Expenditure) Act, 2005 will not be applicable in the instant case and that would not be a bar for consideration of the prayer of higher scale of pay upon acquiring higher qualification.

The District Inspector of Schools (Secondary Education), South 24 Parganas, shall consider the matter of the petitioner keeping in mind the observation made in paragraph 10 in ***Md. Adeel Uz Zaman(supra)*** by a coordinate bench. The paragraph 10 of the said judgment is given below:-

“10. There cannot be any doubt that a person with higher qualification would be expected to have better knowledge in the subject and the students are likely to be benefited by reason of acquiring such higher qualification. The benefit of higher qualification is no doubt benefit of (sic.) the teacher in terms of money but the students are the beneficiary of such acquired knowledge. The institution is as such benefited. It would be the endeavour of all schools to have academic excellence and it is the duty of the State to

encourage academic excellence in all the institutions since the ultimate beneficiary would be the students. We feel that some guidelines should be in place to decide a case like the present one as absence of any such guidelines may lead to arbitrary rejection of a deserving candidate.”

The entire exercise shall be completed within a period of four weeks from the date of communication of this order, after giving reasonable opportunity of hearing to the school and the teacher concerned. The reasoned order shall be passed within the aforesaid period and shall be communicated to the writ petitioner within two weeks thereafter.

The impugned order is modified to the aforesaid extent.

On such consideration the appeal being MAT 618 of 2021 is disposed of.

In view of disposal of the appeal CAN 2 of 2021 is accordingly disposed of.

(Uday Kumar, J.)

(Soumen Sen, J.)

