

Court No. 22
11.5.2023
(Item No. 119)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 11218 of 2023

Raju Das
VS
The State of West Bengal & Ors.

Mr. Gourav Das
Ms. Madhumita Das
... for the petitioner

Affidavit of service filed in Court today, is taken on record.

The petitioner claimed to be an Assistant Teacher presently working at **Pairachali High School (HS), District – South 24-Parganas**. The petitioner had qualified his Higher Education, namely, M.Sc. in Mathematics. The petitioner claimed higher scale of pay commensurating with his Post Graduation degree. The relevant School authority had already recommended the case of the petitioner before the respondent No. 4 but the respondent No. 4 had not decided the issue.

The petitioner finally through its advocate's letter dated March 3, 2023 made a representation before the respondent No. 4 and the same had not yet received any attention of the said authority.

Mr. Gourav Das, learned counsel for the petitioner had referred to the following judgments in support of the petitioner's case which are :

- (i) Judgment and order dated **September 9, 2021** delivered by a co-ordinate Bench in **WPA 21113 of 2019 (Subrata Kumar Ghosh Vs. The State of West Bengal & Ors.)**
- (ii) The judgment and order dated **February 11, 2021** passed by the **Hon'ble Division Bench in MAT 825 of 2020 (Md. Adeel Uz Zaman Vs. the State of West Bengal & Ors.)**

The learned counsel for the petitioner further relied upon **Section 14 sub Section (3) of West Bengal Schools (Control and Expenditure) Act, 2005** and on the basis of the said two judgments of this Court he submitted that, the petitioner is eligible to receive the benefit claimed by him.

None appeared for the respondents.

In view of the above, the respondent No. 4 is directed to decide the issue raised by the petitioner through its advocate's letter dated **March 3, 2023, Annexure P-11** at **page 42** to the writ petition treating the same to be the representation of the petitioner upon giving at least seven days prior hearing notice to the petitioner and the respondent Nos. 5 and 6 respectively and after giving them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

While taking the decision, the respondent No. 4 shall consider the judgments mentioned as above and the relevant provisions of law including their applicability in the facts of the petitioner's case and then shall pass its reasoned order.

The respondent No. 4 shall carry out and complete the entire exercise as directed above, positively within a period of six weeks from the date of communication of this order and then shall communicate his reasoned order to the petitioner and the respondent Nos. 5 and 6 within a further period of two weeks from the date of the said reasoned order.

In the event, reasoned order goes in favour of the petitioner, the respondent No. 4 shall take all further and consequential steps to give effect thereto in favour of the petitioner positively within a period of four weeks from the date of the said reasoned order to be passed.

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

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner whatsoever and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever documents and records he wishes to rely upon before the respondent No. 4.

It is made clear that, this order shall not create any equity or right in favor of the petitioner if the petitioner is otherwise found ineligible to receive his claim strictly in accordance with law.

On the above terms this writ petition being **WPA 11218 of 2023** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)