

31.07.2023
SL No.2
Court No.8
(gc)

**FMA 2764 of 2016
CAN 1 of 2018 (Old No: CAN 7287 of 2018)**

**Bikash Banerjee
Vs.
The State of West Bengal & Ors.**

Ms. Mousumi Bhowal,
...for the Appellant.
Mrs. Tapati Samanta,
...for the State.

The writ petitioner was initially appointed as Cycle Peon on 16th July, 1981. Thereafter he was promoted to the post of Junior Library Attendant on 17th June, 2003. Subsequently, he was appointed as a Rural Librarian on 10th March, 2004. In view of the fact that the petitioner acquired higher qualification after the memorandum dated 7th March, 1990, the petitioner was not entitled to higher scale of pay with retrospective effect from the date of acquiring the higher qualification. This has been laid down by a Coordinate Bench in ***Pradip Kumar Karak & Ors. Vs. The State of West Bengal & Ors.*** reported at **2018 (4) CHN 131(CAL)** and followed in ***WPA 3934 of 201 Tapas Kumar Sarkar Vs. The State of West Bengal & Ors.*** with ***WPA 3937 of 2021 Snigdha Basu Barui Vs. The State of West Bengal & Ors.*** with ***WPA 6352 of 2017 Tapas Kumar Sarkar Vs. The State of West Bengal & Ors.*** with ***WPA 6359 of 2017***

Snigdha Basu Barui Vs. The State of West Bengal & Ors. by Justice Moushumi Bhattacharya on 14th December, 2021.

It is an admitted position that the writ petitioner acquired higher qualification after the benefit was granted to Rural Librarians by the memorandum dated 7th March, 1990 which had been taken away and substituted by the memorandum dated 21st July, 1990 which contemplate issuance of necessary separate orders.

The operative portion of the order in **Pradip Kumar Karak** (supra) is reproduced below:-

“139. However, those librarians who have acquired higher qualifications before the cut-off date of July 21, 1990 are entitled to claim that they be treated at par with the librarians (Shibnath Koley & others) who were before the Hon’ble Supreme Court as respondents in Civil Appeal Nos.6967-6970 of 2009. In fact, the State in its counter-affidavit before the Hon’ble Supreme Court was also candid in its stance that at least some of the appellants were entitled to better pay based on higher qualifications without, however, identifying them. In my opinion, the issue as to whether the librarians who had acquired higher qualifications before the cut-off date i.e. July 21, 1990 is no longer res integra in view of the decision of the Hon’ble Supreme Court in Shibnath Koley (supra).” (emphasis supplied)

In view thereof, the appeal fails.

Accordingly, the appeal and the application stand dismissed.

However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)