

141 01.03.2023
Sc Ct. no.22

WPA 14607 OF 2019

Subrata Biswas

Vs.

The State of West Bengal & Ors.

Mr. Bidhan Biswas

.... For the Petitioner

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

A further notice dated January 31, 2023 was also served upon the learned advocate on record for the State. Despite notice, none appears for the State nor any accommodation has been sought for.

The petitioner claimed to be an Assistant Teacher for the subject Mathematics at **Jajur High School, Dist. - Hooghly** when he was initially appointed on December 24, 2023, he was an Honours Graduate Teacher. He continued with that employment till August 26, 2010. Thereafter he resigned from that employment and by virtue of qualifying the subsequent School Service Commission, he then received an appointment in the present school, the respondent no.7, **Natni High School (H.S.), District - North 24-Parganas**. He joined the second school on August 27, 2010. The petitioner contended that he had acquired the Post Graduate degree in Mathematics on August 17, 2004 when the result for the Post Graduation Examination was declared. The

petitioner claimed that from that date of his acquiring of higher qualification, i.e. **August 17, 2004** he had not received the Post Graduate Scale till the date of his resignation in the first school, i.e., August 26, 2010.

The relevant first school authority had forwarded the case of the petitioner with all relevant records before the respondent no.3, **Annexure – P6 at pages 30 and 31 to the writ petition.** The petitioner also made an independent representation dated April 11, 2019, **Annexure – P9 at pages 38 to 40 to the writ petition.**

The relevant school authority is also not represented.

Considering the submissions made on behalf of the petitioner and considering the case made out in the writ petition, to subserve justice, the respondent no.3 is directed to consider the representation of the petitioner dated April 11, 2019, **Annexure P-9 at pages 38 to 40 to the writ petition** on the following issue –

Whether the petitioner was eligible to receive Post Graduate Scale since the date he acquired the Post Graduate degree on August 17, 2004 till his resignation in the first school, i.e. August 26, 2010 for the subject Mathematics.

The **respondent no.3** shall issue a prior seven days' notice of hearing upon the petitioner and the respondent no.6, and then after hearing them shall pass

a reasoned order on the issue mentioned above strictly in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the **respondent no.3** positively within a period of **six weeks** from the date of communication of this order and the respondent no.3 then shall communicate its reasoned order to the petitioner and the respondent nos. 6 within a **further period of two weeks** from the date of the reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner and the respondent no.6 shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3.

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

In the event, the reasoned decision goes in favour of the petitioner then the respondent no.3, the respondent no.6 and all other appropriate authorities shall take immediate steps to give effect to the said reasoned order but positively within a period of four weeks from the date of communication of the said reasoned order to them.

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

On the above terms this writ petition, **WPA 14607 of 2019** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)