

16.10.2023
Item No. 56
Crt.No.22
b.r.

WPA 22826 of 2015

Arup Sarkar
-vs-
The State of West Bengal & Ors.

Mr. Sk. Sahajahan Ali
..... for the petitioner.

Mr. Gourav Das
Mr. Hemanta Kumar Das
.... For the State.

Referring to the impugned order dated **July 2, 2012 annexure P-7 at page 37** to the writ petition, Mr. Sk. Sahajahan Ali, learned advocate appearing for the petitioner submits that the petitioner claimed higher pay scale after enhancement of his qualification. The claim was rejected with wholly a non-speaking order.

Mr. Gourav Das, learned counsel, appears for the respondent nos. 1 to 3.

On a close scrutiny of the said impugned order dated **July 2, 2012**, it appears to this Court that the same is a cryptic one as cryptic as possible to be.

The same is devoid of any reason. The same is devoid of any discussions. The same is devoid of any factual finding applying the facts of the case which was there before the **respondent no.3**, in view of the claim of the petitioner mentioned in detail in **annexure p-6** at **pages 29 and 30** to the writ petition.

Considering the purport and content of the impugned order, which is assailed through this writ petition **dated July 2, 2012, annexure p-7 at page 31** to the writ petition, no further discussion is required for quashing the same.

Accordingly, the impugned order dated **July 2, 2012, annexure p-7 at page-31** to the writ petition stands **set aside and quashed**.

The **respondent no.2** shall decide the issue on the basis of the claim of the petitioner mentioned in **annexure p-6 at pages 29 and 30** to the writ petition upon issuing a prior hearing notice of at least **seven days** to the petitioner and the **respondent nos. 5** and then after granting them an opportunity of hearing shall pass its reasoned order strictly in accordance with law.

The entire exercise as directed above shall be carried out and completed by the respondent no.2 positively within a period of **six weeks** from the date of communication of this order and he shall communicate its reasoned order to the petitioner and the **respondent no.5** positively within a **further period of two weeks** from the date of the said reasoned order so 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 school authority shall be at

liberty to urge whatever points they wish to urge by relying upon and whatever judgements and law settled on the point before the respondent no.2 and shall be at liberty to rely upon what records and documents they wish to rely upon.

In the event, the reasoned order goes in favour of the petitioner then the **respondent no.3** shall give effect to the same positively within a period of **two weeks** from date of the said reasoned order to be communicated to him.

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

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

With the above directions, this writ petition being **WPA 22826 of 2015** stands **disposed of** without any order as to costs.

(Aniruddha Roy, J.)