

80 27.02.2023
Sc Ct. no.22

WPA 25872 OF 2022

Sanchita Middya

Vs.

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
Ms. Anita Shaw.

...For the Petitioner

Mr. Tarun Das

....For the Respondent
No. 5

The petitioner claimed benefit for acquiring the qualification B.Ed. and becoming a trained teacher. The petitioner claimed that the relevant rules specified that within five years from the date of appointment one had to complete the B.Ed. qualification to receive the reciprocal pay scale commensurating with such B.Ed. qualification. The petitioner contended that she applied before the relevant school authority to seek permission **to join and complete B.Ed. on February 24, 2015, Annexure P-7 at page 51 to the writ petition.** The petitioner had been appointed as an Assistant Teacher on and with effect from August 9, 2010.

Mr. Anjan Bhattacharya, learned advocate for the writ petitioner submitted that there was no fault or laches on the part of the petitioner as the said application of the petitioner was kept pending by the executive authority at their respective offices. However, after receiving the permission the petitioner took admission in the B.Ed. training course for the session 2015-2017 and

successfully completed the course in the year 2017. The petitioner, therefore, is entitled to receive her pay scale commensurating with the said B.Ed. qualification.

Mr. Tarun Kr. Das, learned counsel appeared for the respondent no.5, the school authority.

Despite notice, the State chose not to be represented.

After considering the submissions made on behalf of the appearing parties and on perusal of the materials on record, at the outset, the relevant provision from the **Government Memorandum bearing No.25-SE (B)/IM-107/98 dated February 12, 1999** starts at page 37 to the writ petition is quoted below :

*“(4) Untrained secondary school teachers shall be allowed annual increments in the revised scale of pay on condition that such untrained teachers **will have to get themselves trained within five years from the date of appointment.** An untrained teacher of a recognised Secondary School or a Madrasah of the secondary type with ten years’ teaching experience in recognized schools/madrasahs shall be treated as a trained teacher for the purpose of drawal of increment in the scale applicable to the teacher concerned with effect from the date on which the condition of teaching experience is fulfilled. Such a teacher shall be eligible to draw the increment on completion of one years’ service from the date on which the above condition is fulfilled.”*

(emphasis supplied)

On a close perusal of the said relevant provision from the Government Memorandum dated February 12, 1999 as quoted above it is clear to this Court that untrained secondary school teachers shall be allowed annual increment in the revised scale of pay on condition that such untrained teachers will have to get themselves

trained “*within five years from the date of appointment*”.

In the facts of this case admittedly, the petitioner was appointed as an **Assistant Teacher with effect from August 9, 2010 as would be evident from page 30 to the writ petition**, the impugned order dated March 2, 2022 passed by the respondent no.3. From **Annexure-P7 at page 51 to the writ petition** it further appeared to this Court that the **petitioner applied for obtaining permission to pursue her B.Ed. course on February 24, 2015 from the relevant school authority**. It is a fact that the B.Ed. course is a course for two complete years. **Taking into account the date of appointment of the petitioner to be August 9, 2010 when the petitioner applied on February 24, 2015 immediately before six months of completion of her five years’ employment from the date of appointment for a course which would end in 2017**, it is clear that the petitioner herself did not comply with the time frame stipulated in terms of **clause 4 of the Government Memorandum dated February 12, 1999** as quoted above, of which the petitioner seeks to take advantage of. For completion of course of two years within five years from the date of appointment, the petitioner ought not to have applied immediately before six months of completion of her five years from the date of appointment, seeking permission to pursue her B.Ed, course.

In view of the foregoing reasons and discussions, this Court is of the firm view that the provisions as laid down under Clause 4 to the said Government Memorandum was not complied by the petitioner in the fact of this case. There is no infirmity in the impugned order dated March 2, 2022, passed by the respondent no.3, **Annexure – P5 at page 44 to the writ petition.** Accordingly, the same requires no interference by this Court.

The impugned order dated March 2, 2022 stands affirmed.

This writ petition is totally devoid of merit.

Resultantly, this writ petition, **WPA 25872 of 2022** stands dismissed, without any order as to costs.

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

(Aniruddha Roy, J.)