

05.01.2023

Sl.No. 548

Ct.No. 22

Amalranjan

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA/26697/2014

Ibrahim Ali Sarkar

Vs.

The State of West Bengal & Ors.

Mr. Prahlad Chandra Ghosh

Mr. Subir Hazra

Mrs. Kakali Samajpaty

...for the petitioner

Mr. Milan Kumar Maity

...for the State

Mrs. Sudipa Roy

Mr. Kanai Lal Samantga

Mr. Saibal Acharyya

...for the respondent nos. 4,5 and 6

The writ petitioner claims to be an assistant teacher at **Raiganj Sri Sri Ramkrishna Vidyabhaban (Higher Secondary), Uttar Dinajpur, West Bengal.** At the time of appointment he was a **pass graduate** and was appointed as such. Subsequently, he applied for obtaining permission before the relevant school authority and the respondent no. 3 to enhance his qualification. Such permissions were granted by the respondent no. 3 at page 28 to the writ petition and by the school authority at page 27 to the writ petition. The West Bengal Board of Secondary Education also granted study leave on

full pay to the petitioner as it would be evident from page 31 of the writ petition. The petitioner after obtaining his higher qualification he applied for his higher pay scale through his school commensurated through his higher qualification before the respondent no. 3 and the respondent no. 3 by its decision on 1st September, 2014 at page 38 to the writ petition observed that the petitioner was not entitled to get that benefit as he had been appointed as **Pass Graduate teacher in Physical Education** according to the staff pattern of the school.

Mr. Ghosh, learned advocate appearing for the writ petitioner relied upon a Government order **bearing No. 593-SE(B)/ ES/O/B/1M-98/2007 dated 27.11.2007** (for short the said Government order) and specifically relying upon Clause 3 thereunder he submitted that a teacher is required to seek prior permission from the concerned District Inspector of Schools (S.E) when such teacher wants to claim higher scale of pay for obtaining higher qualification to the Managing Committee of the school. He submitted that, pursuant to the said Government order and the provisions made thereunder the petitioner was eligible to receive the higher pay scale commensurating with his

enhanced qualifications and the respondent no. 3 by rejecting such claim of the petitioner through said impugned order at page 38 to the writ petition had acted illegally and wrongly. He claimed that, the same impugned order of the respondent no. 3 dated 1st September, 2014 at page 38 to the writ petition should be set aside.

Mr. Milan Kumar Maity, learned advocate appearing for the respondent nos. 1, 2 and 3.

Mrs. Sudipa Roy, learned advocate appearing for the respondent nos. 4, 5 and 6.

After considering the submissions made on behalf of the parties and on perusal of the materials on record, at the out set, the relevant portion from the said Government order is required to be quoted below:

“The School Education Department, Government of West Bengal considers it necessary to publish an order specifying the manner in which a teacher appointed in Honours Graduate/Post Graduate scale of pay will be entitled to claim any additional increment and higher scale of pay upon acquiring Post Graduate/or any Higher Diploma/Degree under Section 14(3) of the West Bengal Schools (Control of Expenditure) Act, 2005.”

On perusal of the said provisions of the government order, this court is of the firm view that, the **said government order shall apply in respect of the teacher appointed in Honours Graduate/Post Graduate scale of pay will be entitled to claim any additional increment and higher scale of pay upon acquiring Post Graduate or any Higher Diploma/Degree under Section 14(3) of the West Bengal Schools (Control of Expenditure) Act, 2005.**

Admittedly, the petitioner was appointed as a teacher with **Pass Graduation degree and was not a Honours Graduate neither a Post Graduate.** Hence, the said Government order shall have no effect or application on the case of the writ petitioner.

On scrutiny of the impugned order dated 1st September, 2014 at page 38 to the writ petition, this court is of the firm view that, **there is no infirmity in rejecting the claim of the writ petitioner by the respondent no. 3 and as such the same requires no interference at all by this court.**

The said impugned order dated 1st September, 2014 at page 38 to the writ petition stands affirmed.

Resultantly, this writ petition **WPA 26697 (W) of 2014** stands **dismissed** without any order as to costs.

Interim order, if any, stands vacated.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Aniruddha Roy,J.)