

S/L 35
11.12.2023
Court No.25
SD

WPA 30437 of 2014

Prafulla Kumar Ghosh
Vs.
State of West Bengal & Ors.

Mr. Prahlad Chandra Ghosh
Mr. Subir Hazra
Mrs. Kakali Samajpati

...for the Petitioner.

None appears on behalf of the respondents.

Questioning the sustainability of the order dated 09.9.2014 passed by the District Inspector of Schools (S.E.), Murshidabad in compliance with the order passed by a coordinate Bench of this Court on June 13, 2014 in W.P. No.16407(W) of 2014 and seeking a further direction upon the concerned respondents to grant two additional incremental benefits to the petitioner with effect from the date on which the M.Phil degree was awarded to the petitioner and re-fix the petitioner's pay scale and pay arrear salary in favour of the petitioner, this writ petition was instituted.

Facts as unfolded in the writ petition are that the petitioner, who pursued M.A. in Geography, was appointed as Assistant Teacher in Social Science Group in Choa B.B. Pal Vidyaniketan (H.S.), P.O. Choa, P.S. Harihaharpara, Dist. Murshidabad (in short, the school) on November 24, 1995. The petitioner's appointment in the post was approved by the District Inspector of Schools (S.E.), Murshidabad *vide* his Office Memo dated January 18, 1996.

The petitioner acquired B.T. qualification in 1998 and started drawing incremental benefits for acquiring B.T. qualification. The petitioner got result of M.Phil examination on the date of his joining, that is, on 24.11.1995 but the convocation of said M.Phil examination was held on December 30, 2006. Thereafter, the petitioner approached the concerned authority with a prayer for release of two incremental benefits in his favour for acquiring M.Phil qualification but despite being so approached, the respondent authorities maintained deceptive silence. Hence, the writ petitioner was constrained to prefer a writ petition being W.P. No.16407 (W) of 2014 which was disposed of by a coordinate Bench of this Court by an order dated June 13, 2014. The operative part of the order is set out as follows:-

“I direct the respondent no.3 to extend the above benefit in favour of the petitioner within two months from the date of communication of this order as also to release the same including arrears within a period of two months from the date of communication of this order provided the petitioner is otherwise entitled to get the above benefit.

It is made clear that in the event the petitioner is not entitled to get the above benefit in accordance with law, the respondent no.3 shall communicate reason therefor to the petitioner within the period mentioned hereinabove after giving an opportunity of hearing to him.”

In deference to the said order, the District Inspector of Schools (S.E.), Murshidabad turned down the prayer of the petitioner by passing an order dated 09.09.2014 which is as follows:

“ In compliance with the Order of the Hon’ble High Court as referred to the above the undersigned has to inform him that the benefit of two(2) additional increments on acquiring M.Phil Degree in favour of Prafulla Kumar Ghosh, A.H.M. of the School Could not be considered as there is no provision under Govt. Rules for allowing such benefit.”

Mr. Ghosh, learned advocate representing the petitioner contends that the prayer of the petitioner has been turned down by the concerned D.I. of Schools by passing his non-speaking order which cannot be sustained. He submits that the order impugned in this writ petition should be set aside and a direction may be given upon the respondent to pass a reasoned order in terms of the order passed by a coordinate Bench of this Court in WP No.16407 (W) of 2014.

Admittedly, it is axiomatic that an order passed by a statutory authority must be informed with reason. Basic principle of natural justice requires that a statutory authority while passing an order must assign reason in support of the order passed by him. Rule requiring reasons to be given in support of an order is, like the principle of *audi alteram partem* and such rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law. Absence of reason or irrelevant reasons renders an order passed by a statutory authority arbitrary, unreasonable and violative of Article 14 and 21 of the Constitution of India.

On perusal of the order dated 9.9.2014 passed by District Inspector of Schools, I have no qualm to hold that the order is non-speaking and the said order has not been passed in terms of the order passed by a coordinate Bench of this Court in WP No.16407 (W) of 2014 and consequently, the same cannot be sustained.

In view thereof, the order dated September 9, 2014 passed by the District Inspector of Schools (S.E.), Murshidabad is set aside.

The writ petition is disposed of by directing the District Inspector of Schools (S.E.), Murshidabad to consider the prayer of the petitioner afresh in terms of the order dated June 13, 2014 passed in W.P. No.16407 (W) of 2014, upon granting an opportunity of hearing to the petitioner as well as the school authority and pass a reasoned order within a period of two months from the date of communication of this order.

The reasoned order shall be communicated to the petitioner within a week from the date of passing of such order.

All parties are to act on the website copy of this order.

(Partha Sarathi Chatterjee, J.)