

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 165 of 2021
CAN 5 of 2022
Swarnajit Basu & Ors.
Vs.
Union of India & Ors.

For the petitioners except petitioner nos. 7 & 9	:- Mr. Jayanta Mitra, Sr. Adv. Mr. Baibhav Roy, Adv.
For the petitioner nos. 7 & 9	:- Mr. Ujjal Roy, Adv. Mr. Arpa Chakraborty, Adv. Ms. Priyanka Mondal, Adv.
For UOI	:- Mr. Nilanjan Bhattacharjee, Adv.
For the Board	:- Mr. Ratul Biswas, Adv. Mr. Kaushik Chowdhury, Adv.
For the added respondent	:- Mr. Sudipta Dasgupta, Adv.
Hearing concluded on	:- 08.03.2024
Judgment on	:- 19.04.2024

Amrita Sinha, J.:-

Though hearing of the matter concluded sometime back, but the Court deferred delivering judgment to avoid conflict of decision as the issue in question was pending consideration before the Hon'ble Supreme Court. After order was passed by the Hon'ble Supreme Court the instant judgment is being prepared.

The writ petition has been filed challenging the notification of the National Council for Technical Education being no. F NCTE-Regl 012/16/2018 dated 28th June, 2018 whereby candidates possessing qualification of Bachelor of Education (B.Ed) from any NCTE recognized institution was considered eligible for appointment as teachers in classes one to five provided the candidate mandatorily undergoes a six-month bridge course in elementary education recognized by the NCTE within two years of appointment as primary teacher.

The Hon'ble Supreme Court in the matter of ***Devesh Sharma -vs- UOI & Ors.*** reported in ***2023 SCC Online SC 985*** vide judgment dated ***11th August, 2023*** was pleased to quash and set aside the impugned notification dated 28th June, 2018. The Court was pleased to inter alia observe that the B.Ed qualified teachers were essentially kept out from the purview of the eligibility of the teachers in primary schools as B.Ed was not considered as 'qualification' for teachers at primary level. The inherent pedagogical weakness in B.Ed courses for primary classes, is well recognized, and it is for this reason that the B.Ed trained teachers were required to undergo six-month training in elementary classes within the first two years of their appointment.

The Hon'ble Court, though set aside the impugned notification, but did not specify as to whether the teachers who were already appointed with B.Ed qualification would continue in service or not. The undecided issue gave rise to a further round of litigation.

Application for clarification was filed before the Hon'ble Supreme Court and vide order dated 8th April, 2024 the Hon'ble Supreme Court was pleased to clarify that the judgment delivered by the Court on 11th August, 2023 shall have prospective operation only for those candidates who were appointed without any qualification or condition imposed by any Court of law to the effect that their appointment would be subject to the final outcome of the case which might have been instituted by them and such candidates were in regular employment without any disqualification and were appointed in pursuance of an advertisement where B.Ed was stipulated to be a valid qualification.

The Court was pleased to specify that service of only such candidates shall not be disturbed because of the judgment. The benefit is restricted only for the candidates appointed prior to 11th August, 2023. Mere selection of such candidates or their participation in the selection process will not entitle them to get the benefit of the order. The Supreme Court laid down that the candidates having B.Ed qualification and whose appointments were protected by virtue of the said judgment, will have to undergo a bridge course within a period of one year from the date of the order i.e. within 7th April, 2025.

The Court held that equity demands retention of employment of the teachers appointed with B.Ed qualification as per the criteria set out in the recruitment notice.

In view of the authoritative decision laid down by the Hon'ble Supreme Court vide order dated **8th April, 2024** in ***Miscellaneous Application Diary no. 4303 of 2024 in C.A. no. 5068 of 2023 (Devesh Sharma –vs- Union of India & Ors.)***, the fate of the teachers who were already appointed with B.Ed qualification prior to 11th August, 2023 has been decided. All the parties are directed to act in strict compliance of the direction passed in the said order.

No further issue is left to be decided in the instant writ petition and the connected application. Hence, the writ petition along with connected application stands disposed of.

No costs.

Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)