

Ml- 03.07.2024
16 Ct.18
rkd

W.P.A. 2686 of 2022

Aftabuddin Ahmed

-vs-

The State of West Bengal & Ors.

Mr. Ekramul Bari,
Syed Mansur Ali,
Sk. Intiaj Uddin

....for the petitioner.

Affidavit-of-service filed on behalf of the petitioner is taken on record.

The learned advocate for the petitioner submits that petitioner was appointed as an Assistant Teacher in Bengali on 22nd December, 1999 on the recommendation of the School Service Commission.

It is also submitted that petitioner was recommended by the Commission for being appointed as Assistant Teacher in Bengali under pass category though at the time of joining petitioner was holding postgraduate qualification in Bengali. Petitioner by submitting representation dated 10th November, 2021 has prayed for sanction of postgraduate scale of pay on acknowledging his higher qualification in Bengali.

Today no one is representing the State respondents.

Having considered the submission made on behalf of the petitioner and on perusal of the materials on record, it appears that petitioner was initially appointed as Assistant Teacher in Bengali in pass category. It also appears from the representation dated 10th November, 2021 that on the date of joining petitioner was holding postgraduate qualification in Bengali. On the strength of such higher qualification in Bengali petitioner is claiming postgraduate scale of pay.

Since petitioner was appointed prior to coming into force of the West Bengal Schools (Control of Expenditure) Act, 2005, therefore in order to determine the right of the petitioner to claim higher scale of pay this Court is required to follow the rules which were prevalent at the material point of time.

In terms of Clause 12(3) of Revision of Pay and Allowances Rules, 1998 and the amendment made to Clause 12(3) vide Circular dated 13th July, 1999 being No.155-SE(B) a teacher can claim higher scale of pay provided in the recommendation memo issued by the Commission the teacher is recommended under Hons./PG category. Since in the present case petitioner was initially recommended under pass category for being

appointed as Assistant Teacher possessing of higher qualification at the time of joining does not confer right upon the petitioner to claim higher scale of pay. In this regard reliance is placed on the judgment of the Special Bench dated 7th February, 2024.

Accordingly, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)