

23.02.2024
Item No. ml.174
Crt.No.22
b.r.

WPA 2921 of 2020

Buddhadeb Maity
-vs-
The State of West Bengal & Ors.

Mr. Saktipada Jana
Mr. Subhrajyoti Das
..... for the petitioner.

Mr. Rezaul Hossain
.... For the State.

Affidavit of service filed in Court today, is taken on record.

Despite direction, respondents chose not file any affidavit in opposition to this writ petition.

The petitioner claimed to have been working as an Assistant Teacher for the subject Mathematics at one **Akmura Junior High School, District- Paschim Medinipur**. The petitioner was appointed as an **Hons. Graduate (Mathematics) teacher**. Petitioner then after obtaining prior permission from the jurisdictional **District Inspector of School** pursued and completed his post graduation in the relevant subject. The certificate is available at **page-28** to the writ petition. The petitioner claimed higher pay scale commensurating with his post graduation degree. The **respondent no.3** had rejected the claim through its impugned decision

dated **December 12, 2018, annexure 7 at page-31** to the writ petition. Assailing the said impugned decision, the instant writ petition has been filed.

Mr. Saktipada Jana, learned counsel appearing for the petitioner, at the threshold submits that the amendment dated **April 17, 2017** amending the provision of the **Control of Expenditure Act, 2005** shall not apply in the facts of this case as the petitioner was appointed on **November 27, 2013** prior to the said amendment came into force.

Mr. Rezaul Hossain, learned State counsel, appears for the respondent nos. 1 to 3.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record and on a close scrutiny of the said impugned order dated **December 12, 2018, annexure p-7 at page 31** to the writ petition, this Court is of the firm view that, no reason whatsoever has been ascribed in support of the said decision. The relevant materials and facts were also not considered and discussed in support of the finding of the **respondent no.3**.

The said impugned order cannot sustain in the eye of law.

Accordingly, the impugned order dated **December 12, 2018, annexure p-7 at page-31** to the writ petition stands **set aside** and **quashed**.

To sub-serve justice, the petitioner shall be at liberty to make comprehensive representation before the **respondent no.2** within a period of **two weeks** from date. Such representation shall not travel beyond the scope of the writ petition. Along with the said representation, the petitioner shall also serve copy of the writ petition with all annexures upon **respondent no.2**.

The respondent no.2 then upon issuing at least seven days prior hearing notice on the petitioner, respondent no.3 and respondent no.4 and upon giving them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the respondent no.2 positively within a period of **six weeks** from the date of submission of the said representation by the petitioner as directed above.

The respondent no.2 then shall communicate its reasoned order to the **petitioner** and the **respondent nos. 3 and 4** within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the claim of the petitioner mentioned in the writ petition in any manner and the petitioner and the other parties who shall participate in the hearing before the **respondent no.2** shall be at liberty to urge whatever

points they wish to urge by relying upon whatever records and documents they wish to rely upon.

In the event, the reasoned order goes in favour of the petitioner then the **respondent no.3** shall take all necessary and consequential steps to give effect thereto positively within a period of **two weeks** from the date of the said reasoned order to be communicated to it.

It is further made clear that this order shall not create any equity or right in favour of the petitioner if the petitioner is not eligible to receive his claim strictly in accordance with law.

On the above terms, this writ petition, **WPA 2921 of 2020** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)