

13.06.2024
Item No. 34
PG
Ct. No.7

W.P.A. 4824 of 2009

**Sk. Abu Taleb
Versus
State of West Bengal & Ors.**

Mr. Kaustav Chandra Das
Mr. Sk. Sahjahanfor the petitioner

Mr. Supriyo Chattopadhyay
Ms. Sayantanee Chattopadhyay.....for the State

1. The order of the District Inspector of Schools (SE), Purba Medinipur (for short 'D.I.') dated February 11, 2009 is under challenge in this writ petition at the instance of an Assistant Teacher of a Junior High School. The petitioner has prayed for grant of post graduate scale of pay with effect from February 9, 2003.
2. The petitioner was appointed as an Assistant Teacher in History under Social Science Group in a Junior High School with effect from February 21, 1997. The concerned D.I. accorded approval to the said appointment. The petitioner got an appointment to the post of Assistant Teacher as a pass graduate. Subsequently, he enhanced his qualification by obtaining the Honours degree and thereafter he further enhanced his qualification by way of obtaining the post graduate degree after obtaining prior permission from the concerned managing committee of the school.

3. The petitioner applied for grant of higher scale of pay before the D.I. for grant of post graduate scale of pay. Such prayer was rejected by the concerned D.I. by an order February 11, 2009 on the ground that the petitioner did not obtain permission for enhancing his qualification from the concerned D.I.
4. The issue as to grant of post graduate scale of pay has been decided by the Hon'ble Special Bench in a batch of writ petitions, the lead case being ***W.P.A. 9921 of 2007 (Utpal Kanti Karan vs. State of West Bengal & Ors.)***. In paragraph 272 of the said decision, it has been held that the claim for grant of higher scale of pay has to be decided on the basis of relevant rules existing at the time of acquiring higher qualification. In paragraph 45 of the said decision, Rule 12(3) of ROPA 1998, as amended, was considered. It appears therefrom that all teachers including physical Education teachers and librarians of Secondary Schools who have improved/will improve their qualifications or who were appointed with higher qualification in the subjects or groups relevant to their teaching/appointment shall get higher scale of pay appropriate to their qualifications, with effect from the 1st January, 1996 or the date of improving qualifications whichever is later, provided that such higher qualified teachers in the relevant subjects or

group is justified as per approved staff pattern of that school.

5. Mr. Chattopadhyay, learned senior counsel representing the State submits that before allowing the claim for post graduate scale of pay, it is to be considered whether the approved staff pattern of the school permits grant of higher scale of pay to the teacher in question as the school is a Junior High School.
6. After going through the impugned order, this Court finds that the only reason for rejecting the claim of the petitioner for grant of higher scale of pay was that the petitioner did not obtain prior permission from the concerned D.I.
7. The issue as to whether the approved staff pattern permits grant of higher scale of pay to the teacher in question was not gone into by the concerned D.I. while passing the order impugned. For such reason, the order impugned is set aside and quashed.
8. The concerned D.I. is directed to take into consideration the decision of the Hon'ble Special Bench in the case of *Utpal Kanti Karan (supra)* and the amended Rule 12(3) of ROPA 1998 as well as any other relevant Government orders, notifications, circulars etc. that may be relevant for the purpose of deciding the claim of the petitioner for grant of higher scale of pay.

9. The concerned D.I. shall also take into consideration the approved staff pattern of the school at the relevant point of time while arriving at a final decision with regard to the aforesaid issue.
10. The D.I. shall arrive at a final decision after giving an opportunity of hearing to the petitioner or his authorised representative, the school authority and/or their authorised representative and pass a reasoned order, which shall be communicated to the respective parties immediately thereafter.
11. The entire exercise shall be completed within a period of four weeks from the date of receipt of server copy of this order.
12. With the aforesaid directions, the writ petition is disposed of.
13. There shall be, however, no order as to costs.
14. Urgent photostat certified copy of this order, if applied for, be given to the parties expeditiously upon usual formalities.

(HIRANMAY BHATTACHARYYA, J.)