

WPA 6650 of 2015

**Dibyendu Das
Vs.
State of West Bengal & Ors.**

**Mr. Subir Sanyal,
Mr. Sutirtha Das.**

... for the petitioner

1. In this case the writ petitioner has challenged an order of the District Inspector of Schools, Secondary Education, Murshidabad, dated September 7, 2006.
2. The said respondent authority/respondent no. 4 was considering the petitioner's prayer for enhancement of scale of pay from graduate to honours graduate scale, in terms of his qualification as B.Sc. Agriculture.
3. After consideration the respondent no. 4 has come to the conclusion as below:-

"It is a settled Principle that the Hon/PG scale of pay is granted in favour of a Hons/PG degree holder teacher of the concerned teaching subject only.

In the instant case the petitioners are the subject teachers of Work Education and they have no Hon/PG degree in Work Education, not only that there is no provision to prosecute Hon/PG degree in Work Education, Hons scale of pay may be allowed to B.Sc(Ag) Candidate whose class teaching subject is Agriculture or Agronomy.

In the circumstances I regret that the petitioners prayer for granting Hons.scale of pay can not be considered."

4. Mr. Subir Sanyal, learned counsel is appearing for the writ petitioner.
5. None appears on behalf of the State when the matter is taken up for hearing. Since this is an old case and it is noticed that in spite of direction of the Court, the State has not preferred any affidavit-in-opposition, it

is understood that the State respondent is not interested to contest in the present case.

- 6.** Hence, the writ petition is taken up for disposal.
- 7.** Mr. Sanyal, learned counsel has pointed out to the fact that the advertisement notification mentioned as a relevant qualification in the post of an Assistant Teacher for Work Education, a Bachelor of Science degree in Agriculture along with other degrees. He has informed the Court that Bachelor of Science degree in Agriculture cannot be obtained through a pass course, but only through an Honours course.
- 8.** He has further referred to the relevant provision of the ROPA 1998 to show the relevant scale of pay and consequent revised scale of pay of the trained Honours Graduate of B.Sc. Agriculture degree holder.
- 9.** Mr. Sanyal, has expressed the grievance his client that all along the petitioner has been considered and treated as a graduate and has been granted graduate scale of pay, whereas the petitioner is duly qualified as an Honours Graduate in Agriculture, and entitled to Honours/PG scale of pay.
- 10.** He has further mentioned that the ground as stated by the concerned respondent authority in the impugned order regarding no relevance of the degree of the petitioner to the subject taught by him would be an erroneous consideration in so far as in the employment notification itself, the relevant qualification required for the post of an Assistant Teacher for Work Education, has been mentioned as the Bachelor of Science in Agriculture.

- 11.** For the foregoing reasons, Mr. Sanyal, learned counsel suggests that the impugned order may be set aside by allowing the present writ petition. Also, that the writ petitioner be allowed all the consequential benefits.
- 12.** The employment notification dated October 15, 1999, pursuant to which the writ petitioner applied and took part in the selection process is enclosed with the writ petition. On perusal of the same, it appears that for the post of an Assistant Teacher for Work Education, Bachelor of Science degree in Agriculture would be a relevant and essential qualification of a candidate. Also, that, there is no material on record to suggest in defiance of the submission made on behalf of the petitioner that, a degree in Agriculture would always be through an Honours course and not a pass course.
- 13.** Under such circumstances, the Honours graduate candidate, that is the writ petitioner, who was qualified with an Honours degree in Agriculture, was appointed pursuant to the selection process initiated by the employment notification dated October 15, 1999. However, record reveals that since inception the writ petitioner has been granted the graduate scale of pay, allowable to a teacher not qualified with an Honours degree but a pass degree.
- 14.** The prayer of the writ petitioner for grant of higher scale of pay in accordance with his qualification, was declined by the respondent no. 4 on the ground of the subject taught by him being not relevant to his qualification or degree. The same may not be a

cogent or maintainable ground, in view of the employment notification itself.

- 15.** In the employment notification, the authorities have asserted the relevancy of the subject in which the petitioner is qualified that is BSc degree in Agriculture, with the subject taught by him that is Work Education.
- 16.** Thus, the reason upon which the finding of the respondent no. 4 is made in the impugned order dated September 7, 2006 is baseless.
- 17.** The provisions in ROPA 1998 have categorically mentioned regarding revision of scale of pay of a candidate having B.Sc. Agriculture degree, in the scale of an Honours graduate.
- 18.** On consideration of all above, this Court finds no ground for which the decision taken by the respondent no. 4 in the order dated September 7, 2006 can be maintained.
- 19.** Accordingly, the same is set aside.
- 20.** The writ petitioner being WPA no. 6650 of 2015 is allowed with the following directions:-
 - (i).** The writ petitioner shall be granted the Honours/post graduate scale of pay with effect from the date of his appointment.
 - (ii).** The writ petitioner shall be granted all consequential benefits of fixation and arrear payment calculated from the date of inception of his service at the Honours/post graduate scale of pay.
 - (iii).** The order of this Court as above shall be complied with the respondent no. 4 within a period of

six weeks from the date of communication of copy of this order.

- 21.** Since no affidavits are called for, allegations made in the writ petition, are deemed to have been denied by the respondents.
- 22.** This writ petition being WPA No. 6650 of 2015 is disposed of, along with the pending applications, if any.
- 23.** Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)