

**WPA 6813 of 2020
With
CAN 1 of 2020 (Old No. CAN 5794 of 2020)**

**Brij Kishore Mahato & Ors.
Vs.
State of West Bengal & Ors.**

**Mr. Ekramul Bari,
Mr. Sk. Imtiaj Uddin.
... for the petitioners**

**Mr. Supriya Chattopadhyay, Id. A.G.P.,
Mr. Arindam Ghosh.
... for the State**

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

2. The writ petitioners were the primary teachers under the West Bengal Board of Primary Education and were appointed at various schools under Jalpaiguri District Primary School Council, in Jalpaiguri district. The writ petitioners have been appointed in the year 2000.

3. The writ petitioners have put forth the grievance that from July 2011 to December, 2019 they have been granted 'A' Category scale of pay. However, after December, 2019, the said benefit has been curtailed, which according to the petitioners, is only arbitrary and illegal.

4. The petitioners have filed the present writ petition for redress of their grievance as above with the prayers, inter alia, that (i) A-category scale of

pay be granted to the petitioners with effect from the month of January, 2020.

5. Mr. Bari, learned counsel appearing for the writ petitioners has pointed out to the fact that the writ petitioners were trained for one year in PTTI course from the recognized institution/s, during the session from 2005-2006. However, the results were announced only in the year 2011. Therefore, the writ petitioners say that, the benefits of a duly trained teacher cannot be withheld, in their case. That, they would be entitled to 'A' Category scale of pay, taking into reckoning the date of their appearing in examination and also that belated publication of results, is a fact absolutely beyond their control. It is stated that the due benefit as above has been curtailed for the writ petitioners on the ground that, they were not qualified with completed training of PTTI, the reason being the results having not been published till the year 2011. The writ petitioners are aggrieved that the said reason is absolutely unjustified, prejudicial and illegal too.

6. Mr. Bari, learned counsel has further relied on the judgment of the Hon'ble Division Bench of this Court passed on 05.01.2024, in Appeal Nos. MAT 107 of 2022 with CAN 1 of 2022, MAT 714 of 2020, MAT 715 of 2020, MAT 716 of 2020 with CAN 1 of 2022 and an interim order passed in the said appeals, dated 11.02.2021.

7. Mr. Bari, learned counsel says that the ratio of the decision of the Hon'ble Division Bench in the said judgment is squarely applicable in case of the present petitioners in so far as the petitioners are similarly placed. He says that, unequal treatment amongst the equals cannot be sustained in the eye of law.

8. Mr. Bari, learned counsel has taken this Court to the relevant portion of the interim order of the Hon'ble Division Bench as well as of the final order thereof, to show that pursuant to the said order the benefit of 'A category' scale of pay, which was earlier curtailed by the respondent authorities towards the respective incumbents, has been restored by the Court, as well as all consequential benefits with arrears have been granted to the concerned incumbents.

9. Mr. Bari, insists that the present writ petition be also disposed of in the light of the observations and decisions of the Hon'ble Division Bench as made vide orders dated 11.02.2021 and 05.01.2024 respectively, as mentioned above.

10. Mr. Suman Dey, learned counsel along with Ms. Oindrila Chatterjee, learned counsel for the State respondent are present.

11. Affidavit-in-opposition has been submitted on behalf of the State respondent. However, neither of the respondents have denied knowledge about the interim as well as final order passed by the Hon'ble Division Bench of this Court, in the said appeal, as

mentioned above. It is also not denied that the present petitioners are standing at the similar footing with the parties in the said appeal.

12. Consequently, this Court finds it proper to dispose of the present writ petition in the light of the observations and findings of the Hon'ble Division Bench, passed in the appeal as mentioned above.

13. Para (iii) of Government Order No. 209-SE(E)/PTTI-7/2011 dated 04.03.2013 says that the teachers who had attained one year/two years diploma in elementary education from the State recognized institutions and appointed as a teacher on or before 31.12.2005 shall be treated as trained teacher. The writ petitioners fall within that category, who have been appointed before 31.12.2005 and have attended the course as above from State recognized institution/s.

14. Therefore, according to the said notification, attending diploma course, on or before 31.12.2005, from a State recognized institution, would be the adequate and sufficient criterion, for him to be treated as a 'trained teacher'. The present writ petitioners duly fulfil the said condition. They underwent training in the session 2005-2006. The examination and evaluation part came much thereafter, that is in the year 2011. The same, however, would not be relevant, in terms of notification dated 04.03.2013 but the period during which the training has been undergone, would be.

15. The discussion as above, prompts this Court to find the impugned order dated 28.02.2020 passed by respondent no. 2 as illegal and not maintainable. The impugned order dated 28.02.2020 issued by the Commissioner, Directorate of School Education (Primary Branch), West Bengal is hereby set aside.

16. Accordingly, it is held that the present writ petitioners shall be treated as trained teachers in view of para (iii) of the notification no. G.O. No. 209-SE(E)/PTTI-7/2011 dated 04.03.2013. The writ petitioners are entitled to the 'A Category' scale of pay with effect from the date from which such benefit was curtailed to the petitioners. It is further directed that the writ petitioners shall be entitled to the pay fixation in terms of the revised pay in accordance with the instant order. The respondents shall take necessary steps for grant of arrears of salary.

17. It is also held that the writ petitioners are entitled to be empanelled for the post of Head Teacher, having regard to their A-Category scale of pay with effect from January, 2020, subject to the seniority.

18. Let the concerned respondent duly carry out this order within a period of four (4) weeks from the date of communication of the copy of the same.

19. With the directions as above, this writ petition being W.P.A. 6813 of 2020 is disposed of.

20. CAN 1 of 2020 (Old No. CAN 5794 of 2020) is also disposed of.

21. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rai Chattopadhyay, J.)