

04 **30.08.**
2024

Ct. No. 08

Ab

FMA 1299 of 2021
The State of West Bengal and others.
Vs.
Animesh Choudhury and others.

Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly.
... for the appellants.

Mr. Ekramul Bari,
Mr. Amritam Mondal,
Ms. Madhushri Dutta.
... for the writ petitioner/respondent.

Undeniably, the writ petitioner/respondent no. 1 was pursuing the Post Graduate Course in Mathematics (M.Sc.) at the time of offering his candidature and the date of his appointment to the post of an Assistant Teacher in the said school.

Subsequently, the course was completed, the results were published and the writ petitioner/respondent applied to the authorities for grant of a scale of pay in commensurate with the Post Graduate Degree, which was denied by the authorities.

There has been a slew of litigations before this Court on the basis of the several Government orders/notifications issued in this regard and the divergent opinion were expressed, which ultimately led the point to be referred to a Special Bench in the lead case of Utpal Kumar Karan vs. State of West Bengal and others (APO 343 of 2013) with (WPA 9921 of 2007).

However, the matter travelled to the Apex Court against some of the decisions and it was highlighted therein that the Special Bench is in seisin of the reference and after noticing that some other points assume significance and have some nexus to the seminal point of reference was also referred to the

Special Bench.

One of the points of reference was whether a person, who was pursuing the Master Degree course at the time of offering candidature or the appointment in the Honours/Post Graduate post, so reserved, is entitled to a higher scale of pay as attached to the teacher having a Master Degree and appointed on the same post. The Special Bench answered said reference in its judgment dated 7th February 2024 in the following:

“If a teacher has partially completed higher study before entering service he/she would come under the purview of GO No. 1595-SE(S) dated 26th December 2005 and the question of taking permission from DIS-SE concerned would not arise.”

In view of the law enunciated and operative as on day, the ultimate decision of the Trial Court does not appear to be inconsistent or contrary to the judgment of the Special Bench.

Without making any comment on the findings recorded in the impugned order, since ultimate decision is found to be in consonance with the judgment of the Special Bench, we do not think any interference is warranted in the instant appeal.

The appeal is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

