

Court No. 22
20.02.2024
(Item No. 12)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 10737 of 2014

Arunava Maji
VS
The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Syed Mansur Ali
Sk. Imtiaz Uddin
..... for the petitioner

Mr. Syed Mansur Ali, learned advocate appears for the petitioner.

None appears for the respondents.

The note of the registry dated September 3, 2014 suggests that despite there being direction for filing affidavit on June 10, 2014, no affidavit-in-opposition has been filed.

Considering the issue involved in the writ petition and considering the long standing pendency of the petition, this Court is of the view that no fruitful purpose shall be served by keeping this writ petition pending any further and accordingly this Court proceeds to dispose of the writ petition.

The facts relevant for adjudication of the writ petition are stated hereinafter.

The petitioner at present is an **Assistant Teacher** at one **Achra Jagneswar Institution (H.S.), District – Burdwan, now Paschim Burdwan (for short, the School)** was appointed on **August 1, 1994**. Upon obtaining prior permission the petitioner acquired Post Graduation degree in the relevant

subject. The petitioner then applied for higher pay scale. The respondent No. 4 by its memo dated **September 13, 2002, Annexure P-1** at **page 15** to the writ petition granted the higher pay scale in favour of the petitioner commensurating with his Master degree with effect from **July 1, 2001**. The last date of Post Graduation examination was **June 12, 1997** as would be evident from **Annexure P-4** at **page 18** to the writ petition. The law is well settled that the benefit of higher pay scale should have been granted to the petitioner on and from the following day of the last date of examination i.e. **June 13, 1997**. The petitioner being aggrieved by the decision of the respondent No. 4 dated **September 13, 2002** filed the instant writ petition seeking the higher pay scale on and from **June 13, 1997**.

Learned counsel for the petitioner has relied upon a decision of the co-ordinate bench dated **September 26, 2022** rendered in **W.P.A. 2774 of 2020 In the matter of: Dolly Maity Vs. The State of West Bengal & Ors.** in support of his contention.

The co-ordinate bench relying upon the previous decision of another co-ordinate bench dated **June 25, 2013** rendered in **W.P.A. 21914 of 2012 In the matter of: Susanta Pandit Vs. The State of West Bengal & others** allowed the writ petition granting the benefit on and from the following day of the last date of the Post Graduation examination. The

relevant observation of the co-ordinate bench ***In the matter of: Dolly Maity (Supra)*** is quoted below:

“The question arises for consideration is whether petitioner is entitled to receive the benefit of post graduate scale of pay with effect from the date of publication of the result of M.Sc. Part-II examination or from the date following the last date of M.Sc. Part-II examination. Here in the instant case the final result of M.Sc. Part-II examination was published on 15th March, 1993 and the date following the last date of M.Sc. Part-II examination is 19th December, 1992.

While considering the decision taken by the respondent no. 3 it appears that the benefit of post graduate scale of pay was sanctioned in favour of the petitioner with effect from date the publication of result in terms of ROPA-1990 Rules without considering the clarification which has been made by the Education Department vide Government order dated 17th September, 1984. It has been specifically clarified in the said Government order dated 17th September, 1984 that date of obtaining higher qualification will count from the date following the last date of examination both theoretical and practical - subject to the condition that the incumbent concerned comes out successful in the said examination.

In addition thereto, it appears in Susanta Pandit (supra) a coordinate Bench also on placing reliance on the said Government order dated 17th September, 1984 has decided the issue thereby directing to grant benefit of higher scale of pay in favour of the teacher not from the date of publication of result but from the date following the last date of final examination.

It appears that the respondent no. 3 has failed to take into consideration the clarification which has been made in the Government order dated 17th September, 1984. Accordingly, the decision of the respondent no. 3 relating to grant of post graduate scale of pay with effect from the date of publication of the result of M.Sc. Part-II examination i.e. 15th March, 1993 stands set aside upon quashing the memo dated 28th November, 2019 issued by the respondent no. 3 and modifying the memo dated 15th May, 2018 issued by the respondent no. 3. The concerned respondent authorities are directed to sanction post graduate scale of pay in favour of the petitioner with effect from 19th December, 1992 being the date following the last date of M.Sc. Part-II examination within a period of 8 (eight) weeks from the date of communication of this order.

Accordingly, the writ petition stands disposed of.”

Upon reading the said decision of the co-ordinate bench *In the matter of: Dolly Maity (Supra)*, I am also in respectful agreement with the ratio laid down therein.

In view of the foregoing reasons and discussions, the decision of the respondent No. 4 dated **September 13, 2002** stands modified to the extent that the higher pay scale for acquiring Post Graduation degree shall be granted to the petitioner with effect from **June 13, 1997** being the date following the last date of Post Graduation Examination.

The jurisdictional District Inspector of Schools (SE), Paschim Burdwan is directed to give benefit to the petitioner as directed above positively within a period of **eight weeks** from the date of communication of this order, after causing the necessary pay fixation and then shall pay all the arrears to the petitioner positively within a further period of **four weeks** from the date of pay fixation of the petitioner.

With the above observations and directions, this writ petition being **W.P.A. 10737 of 2014** stands **allowed**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)