

05.12.2024.
PB
Sl. No.2.
Ct. No.25.

WPA 13771 of 2021

Sheikh Faruk
Vs.
The State of West Bengal & Ors.

Mr. Sakti Pada Jana,
Ms. Sudipta Pramanik.
... For the Petitioner.

Mr. T. M. Siddiqui,
Mr. Nilotpal Chatterjee,
Ms. Munmun Ganguly.
.....for the State.

In this case, the petitioner seeks relief that his prayer for grant of higher scale of pay be allowed by the respondent, District Inspector of Schools (S.E.), South 24 Parganas.

Mr. Jana, who is representing the writ petitioner, submits that the law in this regard is well settled, particularly after the Larger Bench judgment of this Court reported in 2024 SCC Online (Cal) 1274 (Utpal Kanti Karan Vs. State of Bengal). He would refer to other verdicts of this Court also, to submit further that in the factual background of the present case, where the writ petitioner joined in service after completion of his Part-I Examination in the Masters Degree Course, he would not be obliged to comply mandatorily with the provisions under G.O. No.593-SE (B) dated 27th November, 2007. He would further say

that on the contrary, in terms of the provisions under Section 14(3) of the Control of Expenditure Act, 2005, the petitioner would be entitled for grant of higher scale of pay, pursuant to his obtaining higher qualification. Mr. Jana, would insist that direction be passed upon the competent authority for allowing petitioner's prayer, as above.

So far as the law, in this regard, is concerned, the Court is with concurrence to what has been submitted on behalf of the writ petitioner.

On behalf of the State respondent too, there is no serious objection as to the law settled in this regard.

The writ petitioner, being inducted in service, after completion of his part I examination, in M.Sc. course and having pursued the rest of the course there after, may not be considered mandatorily to seek prior permission, since there would not be any scope for the reason that he has already enrolled himself there.

Considering as above, it is found proper that the matter be relegated to the respondent no.3/District Inspector of Schools (S.E.), South 24 Parganas, to consider and dispose of the petitioner's prayer by dint of a letter of the learned lawyer, dated July 28, 2021. In doing so, the respondent no.3 shall grant an opportunity of hearing to the petitioner and dispose of the same, in accordance with the law, as prevailing.

The said respondent is directed to pass a reasoned order, unless it considers to allow the prayer of the petitioner.

Let the entire exercise be concluded by the said respondent within a period of two weeks from the date of communication of this order.

Needless is to mention that in case the D.I. in due compliance of the law as settled, approves prayer of the petitioner, as above, it shall immediately take appropriate consequential steps, for extending the benefits to the petitioner.

Writ petition is disposed of.

Since no affidavit has been called for, the allegations made in the writ petition are deemed to have been denied by the respondents.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Rai Chattopadhyay, J.)