

ML 41
04.12.2024
Ct. No. 18
adeb

W.P.A. 13484 of 2023

Munshi Md. Salehin
Vs.
The State of West Bengal & Ors.

Mr. Kazi Sajjad Alam
Ms. Afsana Khatun
Mr. Mainul Thander

...for the petitioner

Mr. Supriyo Chattopadhyay
Ms. Joyee Maiti

...for the State

By presenting this writ petition, *Inter alia*, petitioner has prayed for direction upon the District Inspector of Schools (SE) Purba Bardhaman being respondent no. 3 to make necessary correction in the approval memo dated 13th September, 2022 issued after transfer of the petitioner from Golenowhati Jame High Madrasah, District- Cooch Behar (first madrasah) to Jashapur Barati Md. High Madrasah, District- Purba Bardhaman (second madrasah). Petitioner was initially appointed as an assistant teacher having educational qualification that is Kamil in first madrasah and was sanctioned pass graduate scale of pay. Subsequently, petitioner obtained M.M. qualification i.e. postgraduate degree in 2001 and the last date of final examination for acquiring M.M. qualification was 23rd June, 2001. In spite of acquiring postgraduate degree petitioner was

not sanctioned postgraduate scale of pay which triggered writ petition being WPA 25608 of 2010 which was disposed of by a coordinate Bench on 27th August, 2018 directing the District Inspector of Schools (SE) Cooch Behar to sanction postgraduate scale of pay. Pursuant to such order dated 27th August, 2018 District Inspector of Schools (SE) Cooch Behar sanctioned postgraduate scale of pay in favour of the petitioner with effect from 23rd June, 2001 and petitioner from the said date is enjoying postgraduate scale of pay.

Petitioner subsequently applied for transfer and the West Bengal Madrasah Service Commission vide recommendation memo dated 12th July, 2022 transferred the petitioner to second madrasah. Petitioner joined the post of assistant teacher in second madrasah on 5th August, 2022. While approving appointment of the petitioner on transfer in second madrasah respondent no. 3 issued approval memo dated 13th September, 2022 wherein in column no. 5 it is stated that scale of pay of the petitioner under ROPA 2019 is Level-11. It is submitted by the learned advocate representing the petitioner that Level-11 denotes pass graduate scale of pay whereas petitioner is in receipt of postgraduate scale of pay with effect from 23rd June, 2001. Therefore, according to the petitioner approval memo dated 13th September, 2022 requires correction.

Mr. Supriyo Chattopadhyay, learned Additional Government Pleader representing the State-respondents submits based on recommendation memo dated 12th July, 2022 issued by the Secretary, West Bengal Madrasah Service Commission such approval memo was issued on 13th September, 2022 wherein “Level-11” was mentioned which denotes petitioner is in receipt of pass graduate scale of pay since in the recommendation memo petitioner was treated as pass graduate candidate for his transfer.

Petitioner may have been inadvertently recommended for transfer as pass graduate candidate by the concerned authority of West Bengal Madrasah Service Commission as it appears from recommendation memo dated 12th July, 2022 but it is an admitted position that petitioner is in receipt of postgraduate scale of pay with effect from 23rd June, 2001. The coordinate Bench by order dated 27th August, 2018 decided the eligibility of the petitioner to receive salary in postgraduate scale of pay with effect from 23rd June, 2001 being the last date of final M.M. examination and in pursuant thereto District Inspector of Schools (SE) Cooch Behar sanctioned postgraduate scale of pay in favour of the petitioner vide memo dated 12th October, 2018. Therefore, pay of the petitioner was upgraded from pass graduate scale to postgraduate scale.

In view of aforesaid situation respondent no. 3 is directed to issue revised approval memo indicating in column no. 5 appropriate scale of pay incorporating the level of scale of pay as per ROPA 2019 taking consideration of the fact that petitioner is in receipt of postgraduate scale of pay with effect from 23rd June, 2001.

Respondent no. 3 shall issue revised approval memo by 4 (four) weeks from the date of communication of this order.

Writ petition stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)