

ML 87
10.07.2024
Ct.18
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W.P.A. 13380 of 2022

**Sk. Abdur Rakib
Vs.
The State of West Bengal & Ors.**

Mr. Sakti Pada Jana
Mr. Subhajyoti Das

...for the petitioner

Mr. Swapan Kumar Dutta
Mr. Pradyot Kumar Das

...for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

In the writ petition the decision of the District Inspector of Schools (S.E.), North-24 Parganas as contained in the memo dated 27th May, 2022 is under challenge whereby prayer of the petitioner for according postgraduate scale of pay was spurned.

Mr. Jana, learned advocate representing the petitioner submits that the petitioner was appointed as Assistant Teacher in Science Group with educational qualification B.Sc (Hons.) in Mathematics on and from 3rd October, 2007 in Kumarpur Parasmani Sikshabitan, North 24 Parganas.

From the date of petitioner's appointment he was granted Hons. Graduate scale of pay. Prior to his joining the post of Assistant Teacher petitioner completed Part-I examination of M.Sc. in Mathematics and subsequently he completed postgraduate course on appearing M.Sc. (Mathematics) Part-II Examination in the year 2008. Previously, petitioner filed writ petition being WPA 2581 of 2021 since his prayer for grant of postgraduate scale of pay was not contemporaneously considered by the concerned State respondents. The said writ petition was disposed of by this Court vide order dated 24th September, 2021 directing the concerned District Inspector of Schools to take decision in accordance with law.

It has been submitted on behalf of the petitioner that on an identical issue a judgment was delivered by the Hon'ble Division Bench in ***Adeel Uz Zaman -vs- The State of West Bengal & Ors. in MAT 825 of 2020 dated 11th February, 2021.***

According to the petitioner since the Hon'ble Division Bench in ***Adeel Uz Zaman*** (supra) has decided that in the event the candidate joins the post with Hons. graduate scale of pay at the

time when the said candidate has completed a part of higher course of studies for obtaining post graduation degree in the relevant subject of teaching the prescription as contained in the Circular dated 27th November, 2007 to obtain permission from the concerned District Inspector of Schools to undergo higher course of studies, is not warranted.

It has also been submitted that the ratio of **Adeel Uz Zaman** (supra) has already been approved by the Special Bench in the judgment dated 7th February, 2024.

Mr. Swapan Kumar Dutta, learned Additional Government Pleader represents the State respondents who has made submission to defend the decision taken by the concerned District Inspector of Schools in the memo dated 27th May, 2022. It has also been submitted on behalf of the State-respondents, let an opportunity be given to the concerned District Inspector of Schools either to revisit the issue or a direction be given upon the concerned State-respondents to file a report.

Having considered the submissions made on behalf of the parties and on perusal of the impugned memo dated 27th May, 2022 issued by the District Inspector of Schools (S.E.) North 24

Parganas, it appears that the prayer of the petitioner for grant of postgraduate scale of pay was turned down since permission was not obtained from the concerned District Inspector of Schools for enrolling his name for higher course of studies.

The issue of obtaining permission from the concerned District Inspector of Schools in terms of the Circular dated 27th November, 2007 is no more *res integra* in view of the ratio of **Adeel Uz Zaman** (supra) as decided by the Hon'ble Division Bench considering the fact that at the time of joining the post in the present case on 3rd October, 2007 petitioner completed M.Sc. Part-I course.

It is also required to be recorded herein that the view expressed by the Hon'ble Division Bench in **Adeel Uz Zaman** (supra) has been affirmed by the Larger Bench in the judgment dated 7th February, 2024.

Surprisingly, while taking decision the concerned District Inspector of Schools failed to follow the ratio decided in **Adeel Uz Zaman** (supra) which was affirmed by the Special Bench vide a judgment dated 7th February, 2024 and on the ground of imaginary restrictions which according to the concerned District Inspector of Schools are imposed upon him in absence of a Government

policy the prayer of the petitioner for sanction of postgraduate scale of pay has been rejected. The concerned District Inspector of Schools has transgressed his limit in deciding the issue of grant of higher scale of pay and the decision of the concerned District Inspector of Schools is in the teeth of the view expressed by the Hon'ble Division Bench in ***Adeel Uz Zaman*** (supra). Therefore, right of the petitioner to obtain postgraduate scale of pay is required to be considered in the light of the decision of the Hon'ble Division Bench in ***Adeel Uz Zaman*** (supra).

In view of the above discussion, the impugned memo dated 27th May, 2022 issued by the concerned District Inspector of Schools (S.E.), North 24 Parganas stands set aside.

The concerned District Inspector of Schools being respondent no.3 is directed to grant postgraduate scale of pay to the petitioner from the date of publication of the result of M.Sc. Part-II Examination within a period of four weeks from the date of communication of this order.

Accordingly, the writ petition stands allowed.

However, there shall be no order as to

costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)