

02.07.2024
Court No. 18
Item No. 17
(Suvendu)

WPA 16288 of 2024

Amlan Singha
-Versus-

The State of West Bengal & Ors.

Mr. Sakti Pada Jana

.....for the petitioner

Mr. Swapan Banerjee, Ld. AGP
Mr. Sougata Mitra

.....for the State

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

In the writ petition decision of the District
Inspector of Schools (SE), Paschim Medinipur as
contained in the memo dated 22nd May, 2024 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 Computer
Science with educational qualification B.Sc.
(Hons.) on and from 4th September, 2008 in
Balarampur Abhay Ashram Naitalim Vidyapith
(HS), District –Paschim Medinipur.

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 of higher course of study for acquiring qualification of MCA (Master of Computer Application) and subsequently he completed postgraduate course on appearing final semester in the year 2009. Previously, petitioner filed a writ petition being WPA 616 of 2019 since his prayer for grant of postgraduate scale of pay was not allowed. The said writ petition was disposed of by a Coordinate Bench vide judgment and order dated 22nd February, 2024 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 requirement 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 affirmed by the Special Bench in the judgment dated 7th February, 2024.

Mr. Banerjee, 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 22nd May, 2024.

It has been submitted on behalf of the State respondents that if this Court finds that the decision of the concerned District Inspector of Schools is not in consonance with the relevant Government circulars and the provisions of the West Bengal Schools (Control of Expenditure) Act, 2005 in that event matter needs to be remanded to the concerned District Inspector of Schools for taking decision afresh.

Having considered the submissions made on behalf of the parties and on perusal of the impugned memo dated 22nd May, 2024 issued by the District Inspector of Schools (SE), Paschim Medinipur, it appears that concerned District Inspector of Schools wrongly decided the issue on applying the memo no. 155 –SE (B) dated 13th July, 1999 and thereby came to the finding that at the time of petitioner's appointment the concerned authority of the School Service Commission mentioned the academic qualification of the petitioner as Hons. Graduate in Computer science. Therefore, the petitioner is not entitled to receive postgraduate scale of pay on acquiring higher qualification.

Such decision of the concerned District Inspector of Schools cannot be countenanced in view of the ratio of **Adeel Uz Zaman** (supra) which was subsequently affirmed by the Special Bench in the judgment dated 7th February, 2024.

Sub-section (3) of Section 14 of the West Bengal Schools (Control of Expenditure) Act, 2005 makes a teacher entitled to receive postgraduate scale of pay provided he was appointed with Hons. Graduate scale of pay in

the manner as may be specified thereof. As per Section 14(3) the petitioner is required to fulfill the conditions as contained in the circular dated 27th November, 2007.

However, the condition to obtain prior permission for undergoing higher course of studies as contemplated under the Circular dated 27th November, 2007 has already been relaxed by the Judgment in **Adeel Uz Zaman** (supra) where it has been succinctly held by the Hon'ble Division Bench that in the event the teacher joins the post of Assistant Teacher with Hons. Graduate scale of pay when he has completed part of his higher course of studies, the said teacher is not required to obtain prior permission from the concerned District Inspector of Schools for completing such course of higher studies.

Therefore, the reason which has been assigned by the concerned District Inspector of Schools in the present case that the petitioner is only entitled to receive Hons. Graduate scale of pay since he was recommended by the commission as Hon's Graduate teacher stands negated as the same is contrary to the provision as contained in Section 14(3) of the West Bengal

Schools (Control of Expenditure) Act, 2005 and on the strength of the ratio in **Adeel Uz Zaman** (supra) which has subsequently been affirmed by the Special Bench in the judgment dated 7th February, 2024.

Accordingly, the impugned order of the concerned District Inspector of Schools (SE), Paschim Medinipur dated 22nd May, 2024 stands set aside.

The State respondents are directed to grant postgraduate scale of pay in favour of the petitioner with effect from publication of the result of the final examination of MCA within a period of four weeks from the date of communication of a copy of this order.

With the above observations and direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)

