

11.06.2024
Court No.13
Item No. 53
ap

WPA 15675 of 2023

**Shyamal Krishna Sarkar & Ors.
Vs.
The State of West Bengal and Ors.**

Mr. Sobhan Majumdar,
Ms. Kalpita Paul.

... For the Petitioners.

Mr. Sagnik Chatterjee,
Mr. Nirmalya Roy.

... For the State.

1. The issue to be decided here is, from which date are the petitioners entitled to 'A' category pay scale.

2. All the petitioners are working teachers who entered the service of the DPSC Malda without a valid PTTE qualification. They undertook the course to obtain the qualification during their employment.

3. Admittedly each of the petitioners underwent a one year PTTE course with the sanction of the DPSC at institutes recognised by the West Bengal Board of primary Education (WBBPE).

4. The petitioners appear to be caught between the devil and the deep sea. They had undergone the one year course on the basis of its recognition and the recognition of such institutes offering such course by the WBBPE and with the permission of the DPSC. Such one year course was invalid as per the high court and the NCTE. The petitioners wasted an year of their career and life.

5. The Board/State/DPSC having realized its error in misleading the teachers approached the NCTE for a solution. The solution arrived at was that, as a onetime measure, inter alia, the petitioners would be allowed to undergo a “Bridge Course” for one further year in addition to the one year course already undergone by them. The teachers would then be deemed to be lawfully qualified.

6. It is only thereafter that the examination for the one year course held in 2005-06, was held in the year 2011. It is from the day after the last day of the said examination, the petitioners are entitled to ‘A’ category pay scale. Therefore even the DPSC has not taken the one year bridge course as a condition precedent for the ‘A’ category pay scale to the petitioner.

7. Learned Counsel for the writ petitioner referred to the circular dated 4th March, 2013 issued by the Joint Secretary, School Education Department, Elementary Education Branch from which there could be an interpretation that the actual qualification of PTTE and the consequent ‘A category’ was referring to only a one year course as recognized by the Board.

8. The teachers have now also completed the one year bridge course. They however claim ‘A’ category pay scale from the day of completion of the original one year PTTE course i.e. June 2006, which they joined at the instance of the DPSC and the WBBPE.

9. By reason of this argument, the right of the petitioners under the circular dated 4th March, 2013 (supra) would revive automatically. In effect, the petitioners would be entitled to 'A' category pay scale upon the expiry of the one year course in 2005 – 2006 when as the final examinations were to be conducted in June 2006.

10. Counsel for the State has argued that, upon successful completion of examination in the one year albeit held after 5 years in 2011, the petitioners would be entitled to the 'A' category pay scale. The subsequent undergoing of the one-year bridge course, therefore need not be counted, if completed successfully. The petitioner therefore cannot be penalized for the delay of 5 years in the holding of the exam for the course of 2005-06.

11. The legitimate expectation, on the part of the petitioners, of 'A category' pay scale accruing in June 2006 crystallized and matured into promissory estoppel with the subsequent steps taken by the Board.

12. Undergoing the examination in the year 2011 of a course complete in June 2006 and the subsequent one year bridge course constitutes an ex post facto regularization, of what can be at best categorized as an irregularity in the one-year course undertaken by the petitioners for no fault on their part. Such irregularity must be deemed as having occurred solely at the instance of the Board.

13. In the backdrop of the above, the contention of the State advanced today, appears to be an afterthought.

14. For the reasons stated above, it is directed that the 'A category' pay scale shall be given to the petitioners with effect from June 2006, when the petitioners completed the one year teacher training course when final examination ought to have been held initially.

15. With the aforesaid directions, the instant writ petition shall stand disposed of.

16. There shall be no order as to costs.

17. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)