

16.07.2024
Court No. 18
Item No. 21
(Suvendu)

WPA 17472 of 2024

Brindaban Manna

-Versus-

State of West Bengal & Ors.

Mr. Kanai Lal Samanta

.....for the petitioner

Mr. Nikhil Kumar Gupta

....for the State

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

Petitioner being an Assistant Teacher in Geography is claiming postgraduate scale of pay since by mutual transfer order dated 8th February, 2021 petitioner was transferred to a post of another Assistant Teacher having qualification of Geography (Hons.) and the said post was earmarked for a candidate having Honours/ Post-Graduate degree in Geography. It is also submitted by Mr. Samanta, learned advocate representing the petitioner that at present petitioner is taking Geography classes in higher secondary section.

According to the petitioner, in view of aforesaid reasons petitioner is entitled to enjoy postgraduate scale of pay.

Such prayer of the petitioner is opposed by the learned advocate representing the State respondents on the count that petitioner was appointed as an Assistant Teacher with qualification of B.A. (Pass) as mentioned in the recommendation memo issued by the concerned authority of the West Bengal Regional School Service Commission, Northern Region, Malda and such recommendation memo was issued on 2nd September, 2009 which is at page 23 of the writ petition. It is also submitted that based on such recommendation memo pass-graduate scale of pay was sanctioned to the petitioner while granting approval by the concerned District Inspector of Schools.

Having considered the submissions made on behalf of the parties and taking note of the materials available on record, it appears that petitioner participated in the selection process conducted by the School Service Commission as pass-graduate candidate and being successful he was recommended vide memo dated 2nd September, 2009 for the post of Assistant

Teacher in Geography having B.A. (Pass) qualification. Based on such recommendation dated 2nd September, 2009, the concerned District Inspector of Schools issued approval of appointment in favour of the petitioner with effect from 22nd October, 2009 thereby sanctioning pass-graduate scale.

The issue has been dealt with in details by the Hon'ble Special Bench in series of matters, first one being **WPA 9921 of 2007 (Utpal Kanti Karan Vs. State of West Bengal & Ors.)**. In the said matter Hon'ble Special Bench delivered judgment on 7th February, 2024 wherein right of a candidate, who was recommended by the School Service Commission for the post of Assistant Teacher with pass graduate qualification in spite of fact that the said teacher was having postgraduate qualification at the time of appointment, has been negated and such teacher was not adjudged being eligible to get benefit of post graduate scale of pay.

It is submitted on behalf of the petitioner that at the time of participation in the recruitment procedure petitioner was not possessing postgraduate qualification but at the

time of his appointment he acquired higher qualification.

Such fact cannot improve the case of the petitioner since he participated in the selection process under pass-graduate category and he was recommended by the Commission as an Assistant Teacher having pass-graduate qualification.

In aforesaid scenario, no relief can be granted to the petitioner and accordingly the writ petition stands dismissed, without any 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.)