

16.07.2024
Court No. 18
Item No. 20
(Suvendu)

WPA 17465 of 2024

Pulak Sarkar
-Versus-

The State of West Bengal & Ors.

Mr. Sk. Sahjahan
Mr. K.C. Das

.....for the petitioner

Mr. Abhijit Sarkar
Mr. Arka Mondal

.....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), Purba Bardhaman as
contained in the memo dated 20th June, 2022 is
under challenge whereby prayer of the petitioner
for according postgraduate scale of pay was
spurned.

Learned advocate representing the
petitioner submits that the petitioner was
appointed as Assistant Teacher in Mathematics
with educational qualification B.Sc. (Hons.) on
and from 11th October, 2007 in Kusumgram

Tyeba Institution (HS), District –Purba Bardhaman.

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 relating higher course of study for acquiring qualification of M.Sc. in Mathematics and subsequently he completed postgraduate course on appearing Part –II examination in the year 2008. Previously, petitioner filed a writ petition being WPA 20768 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 order dated 13th February, 2020 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.

Learned advocate representing the State respondents has made submission to defend the decision taken by the concerned District Inspector of Schools in the memo dated 20th June, 2022.

Having considered the submissions made on behalf of the parties and on perusal of the impugned memo dated 20th June, 2022 issued by the District Inspector of Schools (SE), Purba Bardhaman, 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 before 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 and ratio of the judgment is applicable considering the fact that at the time of joining the post in the present case on 11th October, 2007 petitioner completed M.A. 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 approved by the Larger Bench in the judgment dated 7th February, 2024.

In view of the above discussion, the impugned memo dated 20th June, 2022 issued by the concerned District Inspector of Schools (SE), Purba Bardhaman 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 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.)