

07
rkd 15.07.2024
Ct.18

W.P.A. 17469 of 2024

Sanjit Mandal

-vs-

The State of West Bengal & Ors.

Mr. K. C. Das,
Mr. Sk. Sahjanan

....for the petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Ranjan Saha

....for the State.

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

In the writ petition prayer of the petitioner
for grant of postgraduate scale of pay on acquiring
M.Sc. qualification in Mathematics being relevant
subject of teaching has been spurned by the
concerned District Inspector of Schools is under
challenge.

It has been submitted on behalf of the
petitioner that petitioner joined the post of
Assistant Teacher on 5th October, 2007 with Hons.
Graduate qualification in Mathematics but prior to
joining he took admission in Netaji Subhash Open
University on 18th August, 2007 in postgraduate
course for acquiring qualification of M.Sc. in
Mathematics.

It has also been submitted on behalf of the

petitioner since he took admission in postgraduate course prior to the date of joining on 5th October, 2007 the ratio decided by the Hon'ble Division Bench in **MAT 825 of 2020 (*Adeel Uz Zaman –vs- The State of West Bengal & Ors*)** shall apply which would dispense with the requirement of obtaining prior permission for enrolling in higher course of studies on joining the post on 5th October, 2007 as contemplated under the Government Order dated 27th November, 2007.

Mr. Vaisya, learned Additional Government Pleader representing the State respondents submits that in the present case petitioner took admission in postgraduate course on 18th August, 2007 and was recommended within one month thereafter on 12th September, 2007 for being appointed as an Assistant Teacher by the concerned authority of the School Service Commission.

According to the learned advocate representing the State respondents at the time of joining the post of Assistant Teacher on 5th October, 2007 petitioner could not complete Part-I M.Sc. course. Therefore, according to the State respondents the ratio of ***Adeel Uz Zaman*** (supra) may not apply in the present case.

Having considered the rival submissions

made on behalf of the parties and taking note of the impugned decision of the concerned District Inspector of Schools dated 9th August, 2021 it appears that the Hon'ble Division Bench decided the issue in ***Adeel Uz Zaman*** (supra) on 11th February, 2021 but the issue was decided by the concerned District Inspector of Schools on 9th August, 2021 i.e. after the decision of the Hon'ble Division Bench.

However, on perusal of the impugned decision of the concerned District Inspector of Schools, it appears that simply on the ground of absence of prior permission from the District Inspector of Schools as required under the Government Order dated 27th November, 2007 the claim of the petitioner for sanctioning postgraduate scale of pay was refused. Why the ratio of ***Adeel Uz Zaman*** (supra) shall not apply in the present case has not been delved into while deciding the entitlement of the petitioner to obtain postgraduate scale of pay.

On perusal of the judgment of the Hon'ble Division Bench in ***Adeel Uz Zaman*** (supra) it appears that the Hon'ble Division Bench proceeded on the premise that at the time of appointment of the appellant as Assistant Teacher he was pursuing

higher course of studies and ultimately it was decided that the appellant did not have opportunity to comply with the provisions as contained in the Government Order dated 27th November, 2007 of obtaining prior permission for enrolling himself in higher course of studies.

Therefore, question arises in the present case as to why the ratio of **Adeel Uz Zaman** (supra) shall not apply while determining the eligibility of the petitioner to obtain postgraduate scale of pay specially in view of the fact that the decision of the **Adeel Uz Zaman** (supra) has been affirmed by the Hon'ble Special Bench vide judgment dated 7th February, 2024.

In aforesaid consideration the impugned order of the concerned District Inspector of Schools dated 9th August, 2021 stands set aside.

The District Inspector of Schools (S.E.), Murshidabad being respondent no.3 is directed to revisit the issue after granting opportunity of hearing to the petitioner or his representative and pass a reasoned order on the claim of the petitioner for sanction of postgraduate scale of pay by eight weeks from the date of communication of this order.

It needs to be recorded herein that while

taking decision the respondent no.3 shall take into consideration the ratio decided in ***Adeel Uz Zaman*** (supra) subsequently being affirmed by the Hon'ble Special Bench vide judgment dated 7th February, 2024.

The decision to be taken by the respondent no.3 shall be communicated to the petitioner by one week thereafter.

With the aforesaid 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 learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)