

**MI 107**  
**13.06.2024**  
**Ct.18**  
**adeb**

W.P.A. 17326 of 2022

Ila Murmu

-vs-

The State of West Bengal & Ors.

Mr. uday Sankar Chattopadhyay  
Mr. Rajashree Tah  
Ms. Trisha Rakshit  
Ms. Aishwarya Datta  
Ms. Bidisha Chakraborty

....for the petitioner.

Mr. Biswabrata Basu Mallick  
Mr. Sayan Ganguly

....for the State.

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

In the writ petition the decision of the  
District Inspector of Schools (S.E.), Murshidabad as  
contained in the memo dated 10<sup>th</sup> March, 2022 is  
under challenge whereby prayer of the petitioner  
for according postgraduate scale of pay was  
spurned.

Mr. Chattopadhyay, learned advocate  
representing the petitioner submits that the  
petitioner was appointed as Assistant Teacher in  
History with educational qualification B.A. (Hons.)  
in History on and from 22<sup>nd</sup> March, 2004 in Lalgola  
Sailaja Memorial Girls' High Schools, Murshidabad.

From the date of petitioner's appointment

she was granted Hons. Graduate scale of pay. Prior to her joining the post of Assistant Teacher petitioner completed part of higher course of study for acquiring qualification of M.A. in History and subsequently she completed postgraduate course on appearing M.A. (History) Part-II Examination in the year 2005. Previously, petitioner filed writ petition being WPA 9928 of 2021 since her prayer for grant of postgraduate scale of pay was not contemporaneously considered by the concerned State respondents. The said writ petition was disposed of by this Court vide order dated 27<sup>th</sup> September, 2021 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 11<sup>th</sup> 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 approved by the Special Bench in the judgment dated 7<sup>th</sup> February, 2024.

Mr. Basu Mallick, learned advocate represents the State respondents who has made submission to defend the decision taken by the concerned District Inspector of Schools in the memo dated 10<sup>th</sup> March, 2022.

It has been submitted on behalf of the State respondents that in view of amendment being made i.e. the West Bengal Schools (Control of Expenditure) (Amendment), Act, 2016 on 2<sup>nd</sup> February, 2017 petitioner being the teacher of normal section in the concerned school is not entitled to receive postgraduate scale of pay.

Having considered the submissions made on behalf of the parties and on perusal of the impugned memo dated 10<sup>th</sup> March, 2022 issued by the District Inspector of Schools (S.E.) Murshidabad, it appears that the concerned

District Inspector of Schools wrongly applied the circular dated 13<sup>th</sup> July, 1999 being G.O. No. 155-SE (B). Since petitioner was appointed with effect from 22<sup>nd</sup> March, 2004 as an assistant teacher with Hons. graduate scale of pay, there is no impediment in granting post graduate scale of pay in favour of the petitioner since petitioner participated in the selection process conducted by the School Service Commission under Hons./PG Category.

It is true that on the date of joining of the petitioner on 22<sup>nd</sup> March, 2004 West Bengal Schools (Control of Expenditure) Act, 2005 did not come into existence but in view of participation of the petitioner in the selection process under Hons./PG Category and grant of Hons. graduate scale of pay from the date of her entry into service petitioner is entitled to receive postgraduate scale of pay on acquiring postgraduate qualification in her relevant subject of teaching subject to fulfillment of other conditions. So far necessity to obtain permission from the District Inspector of Schools as contemplated under the relevant circulars stands dispensed with in view of the ratio decided by the Hon'ble Division Bench in **Adeel Uz Zaman** (supra) and the said ratio has been

approved by the Special Bench vide judgment dated 7<sup>th</sup> February, 2024.

Reliance is also placed on the order passed by this Court in identical situation on the writ petition being WPA 8171 of 2022 (Sandhya Sardar Vs. the State of West Bengal & Ors.) dated 10<sup>th</sup> June, 2024.

An additional point has been taken by the learned advocate for the State that an amendment has been carried out with effect from 2<sup>nd</sup> February, 2017 to the West Bengal Schools (Control of Expenditure) Act, 2005 and in terms of such amended provision only the teachers working with Hons. graduate scale of pay in the higher secondary section are entitled to receive postgraduate scale of pay.

However, nothing has been shown to this Court that this West Bengal Schools (Control of Expenditure)(Amendment), Act, 2016 has retroactive operation. In the present case petitioner obtained postgraduate qualification in the year 2005; therefore right of the petitioner to obtain postgraduate scale of pay is required to be considered in the light of the decision of the Hon'ble Division Bench in ***Adeel Uz Zaman*** (supra).

In view of aforesaid discussion the decision of the concerned District Inspector of Schools (SE) Murshidabad as contained in memo dated 10<sup>th</sup> March, 2022 stands set aside. The concerned State-respondents are directed to grant postgraduate scale of pay in favour of the petitioner within a period of 4 (four) weeks from the date of communication of the order from the date of publication of result of M.A. Part-II examination, in favour of the petitioner.

Accordingly, the writ petition stands allowed.

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.)**