

04.01.2024
Item No. ml. 146
Crt.No.22
b.r.

WPA 16649 of 2019

Partha Ghosh
-vs-
The State of West Bengal & Ors.

Mr. Debabrata Ray
Ms. Priyanka Mandal
.... For the petitioner.

Mr. Mrinal Kanti Ghosh
Ms. Sayantanee Bhattacharjee
.... For the State.

This a hearing matter upon completion of affidavits.

This is the second round of writ litigation by the writ petitioner.

In the previous writ petition **WP 24798(W) of 2018**, a **co-ordinate Bench** by its order dated **January 8, 2019, annexure P-9 at page-72** to the writ petition, directed the **respondent no.2** to consider the representation of the petitioner and then pass a reasoned order.

Pursuant to the said direction of the co-ordinate Bench, the **respondent no.2** passed its impugned order which was communicated to the petitioner by a forwarding letter dated **March 28, 2019 at page-82** to the writ petition.

In this second round of writ litigation, the petitioner assailed the said impugned order.

Pursuant to the direction made by this Court, the respondent nos. 1, 2 and 3 filed a report in the form of affidavit affirmed on August 8, 2023.

Ms. Sayantanee Bhattacharjee, learned State advocate appearing for respondent nos. 1, 2 and 3 submits that an affidavit in opposition has also been filed, though the same has not been found on record.

The petitioner has filed one exception to the said report in the form of affidavit affirmed on September 27, 2023.

The petitioner by way of an approval for appointment letter dated **December 6, 1999, annexure-p3 at page 27** to the writ petition, was appointed at the relevant school as **Craft Instructor (Drawing)**. The name of the petitioner had featured against **Serial no.7** in the approval of appointment dated **December 6, 1999**. The petitioner has been continuing with his employment as such.

Mr. Debabrata Ray, learned counsel appearing for the petitioner submits that in most of the occasions though the petitioner was appointed as a **Craft Instructor (Drawing)** but use to take classes for the subject **history** at the relevant school. The petitioner executes the job of an **Assistant Teacher**. Referring to

annexure p-1 at page 23 onwards, the learned counsel for the petitioner submits that the petitioner has obtained diploma in applied art in the year about 1993-1994 and bachelor of arts from the University of Calcutta in 1997. Referring to **annexure p-4 at page 31** to the writ petition, learned counsel for the petitioner submits that, the State authority, The Mass Education Extension Department by its official Memo dated **January 31, 2000** granted higher pay scale according to the higher qualification to the Assistant Teachers of Non-Government Secondary schools. He submits that, since the petitioner in addition to his Craft classes takes history classes he must be granted higher pay scale in terms of the said Government Memo dated January 31, 2000. Referring to the impugned order, he submits that, the respondent no.2 has passed the same wholly in non-application of mind and in clear discrimination by not granting the benefit of the said higher pay scale to the petitioner, as decided to be granted by the State under the said Memo dated January 31, 2000. He submits that the petitioner is eligible to receive higher pay scale in terms of the said Memo dated January 31, 2000 otherwise there shall be a clear violation of equality and the petitioner shall suffer stagnation. He therefore prays that, this writ petition shall allowed by setting aside the

impugned decision of the respondent no.2 and by allowing the petitioner to receive the higher pay scale.

Ms. Sayantanee Bhattacharjee, learned State counsel appearing for the respondent nos. 1 to 3 submits that the petitioner is claiming higher pay scale for acquiring a qualification on a **non-relevant subject**, that is, history as he was appointed as a Craft Instructor (Drawing).

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that admittedly the petitioner was approved for an appointment for the post of **Craft Instructor (Drawing)** at the relevant school on **December 6, 1999**. The petitioner since then has been enjoying the relevant scale to which he is eligible to receive. Even if assuming but not admitting, it is taken for consideration that the petitioner takes history classes regularly then also the same shall not alter the **status** and **class** of the petitioner for which he was appointed, that is, **Craft Instructor (Drawing)**. The relevant employment for the petitioner is for Craft Instructor(Drawing) and not as a history teacher or an **Assistant Teacher** at the relevant school.

On a close scrutiny of the Government Memo dated **January 31, 2000, annexure p-4 at page 31** to the writ petition shows that it was an executive

instruction issued by the State on its administrative fiat and the same is **restricted** and **applicable** for the **Assistant Teachers only**. The Craft Instructor(Drawing) is a separate, different and an independent class, which admittedly is not covered within the scope and purview of the said Government Memo dated **January 31, 2000**. Hence, this Government Order would have no manner of application for the petitioner for receiving higher pay scale. Hence, by not allowing the petitioner to receive higher pay scale in terms of the said Govt. Memo dated January 31, 2000, no discrimination was caused.

The relevant observations from the impugned order rejecting the claim of the petitioner is quoted below:-

“Perused the entire documents and records maintained in this office and considered the submission of the Ld. Advocate of the petitioner. It appears that the unrevised scale of pay for the post of Music Teacher is Rs.4000-8850/- and that for the post of physical Instructor is Rs.4650-10175/- in terms of GO No. 531-Edn (MEE) dated 30.3.1999. In terms of the said GO dated 30.3.1999, the unrevised scale of pay for the post Craft Instructor is Rs.3350—6325/- (for Matriculate) and Rs.3150-5680/- (for others). The posts of Music Teacher and Physical Instructor cannot be placed on the same footing with the petitioner’s post, i.e. Craft Instructor. The Craft Instructors of other schools, under the Administrative control of this Department, have been allowed scale of pay in terms of GO dated 30.3.1999, as stated above.

Thus the petitioner is not entitled to higher scale of pay for the reasons as stated above.

Order

In compliance with the order of the Hon'ble High Court dated 08.01.2019, by His Lordship the Hon'ble Shekhar B. Saraf in W.P. No. 24798(W) of 2018 in the matter of Partha Ghosh Vs- State of West Bengal and Others, I, the respondent no.2 of the said writ petition, after going through the said writ petition, the representation of the petitioner and all the relevant records and documents, do hereby order that the claim of the petitioner in his representation, dated 12.9.2018 is considered and rejected.

Copy of this order be served upon all concerned."

On a close scrutiny of the impugned order, this Court is of the firm view that, all the relevant facts and figures had duly been considered by the respondent no.2 while passing the impugned order. The reasons for rejection are amply clear. Moreover, the petitioner cannot claim any parity for higher pay scale of an Assistant Teacher having been appointed as a Craft Instructor (Drawing). The reasoned order is otherwise very well versed and well founded. There is no perversity or infirmity on the face of it.

In view of the forgoing reasons and discussions, this Court is of the considered view that, the said reasoned order passed by the **respondent no.2** part of **annexure p-11 at page-81** to the writ petition calls for **no interference** at all. The reasoned order stands **affirmed**.

Accordingly, this writ petition, **WPA 16649 of 2019** stands **dismissed**, without any order as to costs.

(Aniruddha Roy, J.)