

ML 49
05.12.2024
Ct. No. 18
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W.P.A. 18172 of 2023

**Hariswami Das
Vs.
The State of West Bengal & Ors.**

Mr. Sudip Ghosh Chowdhury
Ms. Shreyeta Mitra
Ms. Debalina Chakraborty
..for the petitioner

Ms. Rama Halder
Mr. Sabyasachi Bhattacharjee
...for the State

Supplementary affidavit filed on behalf of the petitioner is taken on record.

By presenting this writ petition, *inter alia*, petitioner has prayed for sanction of two incremental benefits for possessing Ph.D degree. Learned advocate representing the petitioner submits that convocation was held by the university on 8th April, 2010 conferring Ph.D degree upon the petitioner which makes the petitioner entitled to receive such incremental benefits.

Learned advocate representing the State-respondents has opposed the prayer of the petitioner seeking sanction of incremental benefits on the strength of the judgment of the Hon'ble Division Bench dated 5th April, 2019 passed on intra Court appeal being **FMA 2368 of 2015 (State of West Bengal & Ors. Vs. Gautam Ghosh & Ors.)**

Having considered the respective submissions made on behalf of the parties and on placing reliance on **Gautam Ghosh** (supra) this Court finds incremental benefit as sought for by the petitioner for possessing Ph.D degree is impermissible if pay of the petitioner is governed by Revision of Pay and Allowance Rules, 2009. In this regard this Court finds apt to quote relevant part of the judgment of the Hon'ble Division Bench passed in **Gautam Ghosh** (supra) below:-

“In the present case, the convocation was held on March 9, 2006 when ROPA 1998 was not in operation. The petitioner has claimed additional benefits on the basis of ROPA 1998. Therefore, the Rules on which the claim is made must be in existence on which he has acquired the qualification and after the introduction of ROPA 1998 with effect from January 1, 2006 ROPA 1998 had ceased to be in existence on the date the convocation was held and the date on which the degree was awarded upon the petitioner. Since the Rules themselves had ceased to exist on the date the degree was awarded the petitioner/respondent no. 1 must be held to be ineligible that the benefits claimed by him under ROPA 1998.”

In this case convocation was held on 8th April, 2010 conferring degree upon the petitioner whereas indisputably ROPA 2009 Rules came into existence prior to that thereby revising pay of the petitioner being assistant teacher of a Government aided higher secondary school. Since ROPA 2009 is silent with regard to sanction of incremental benefits in favour of teacher for possessing Ph.D degree, petitioner is not entitled to receive such benefits in consideration of the ratio of **Gautam Ghosh** (supra).

Hence, writ petition stands dismissed.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)