

14.06.2024
Court No. 18
Item No. 137 (ML)
(Suvendu)

WPA 19164 of 2022

Sujan Kumar Pal
-Versus-
State of West Bengal & Ors.

Mr. K.M. Hossain
Mr. Kazi Ardan Ali

..... for the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee

.....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 (SE), Kolkata as
contained in the memo dated 24th June, 2022 is
under challenge whereby prayer of the petitioner
for according postgraduate scale of pay was
spurned.

The learned advocate representing the
petitioner submits that the petitioner was
appointed as an Assistant Teacher in Computer
Science with educational qualification B.Sc.
(Hons.) in Computer Science on and from 16th
August, 2010 in Gandhi Colony Madhyamik
Vidyalaya, Regent Park, Kolkata.

From the date of petitioner's appointment he was granted Hons. Graduate scale of pay. Prior to his joining to the post of Assistant Teacher, petitioner completed 1st and 2nd Semester of MCA course and subsequently he completed MCA course in the year 2012. Previously, petitioner filed a writ petition being WPA 23191 of 2018 since his prayer for grant of postgraduate scale of pay was rejected vide memo dated 8th February, 2017. The said writ petition was disposed of by this Court vide order dated 31st March, 2022 directing the concerned District Inspector of Schools to take decision afresh.

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 prescription as contained in the Circular dated 27th November, 2007 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.

Mr. Chattopadhyay, 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 24th June, 2022.

It has been submitted by the learned advocate representing the State respondents that the leave which was availed of by the petitioner for completing higher course of studies needs approval by the appropriate authority. In absence of leave of 56 days which was treated as extraordinary leave without pay being sanctioned the petitioner 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 24th June, 2022, it transpires that the concerned District Inspector of Schools spurned the prayer of the petitioner seeking sanction of postgraduate scale of pay chiefly on the ground that the petitioner availed of 56 days extraordinary leave without pay without the same being sanctioned by the appropriate authority.

Such stand of the concerned District Inspector of Schools pales into significance in view of the resolution of the managing committee of the school dated 25th November, 2013 which is annexed at page 57 to this writ petition. On perusal of the said resolution, it is clear that the school authority approved the leave of the petitioner by treating the same as extraordinary leave without pay and thereafter decided to forward the issue to the concerned District Inspector of Schools for grant of higher scale of pay.

It needs to be recorded herein that vide another resolution dated 26th February, 2013, school authority decided to forward the issue to District Inspector of Schools for grant of higher scale of pay.

Sanction of leave availed of by the teaching staff is granted by the West Bengal Board of Secondary Education not by the District Inspector of Schools. Therefore, District Inspector of Schools is not required to ponder about such issue.

Apart from leave, other issues relating to grant of higher scale of pay are required to be scrutinized and approved by the concerned District Inspector of Schools. It has already been decided by this Court in the previous order dated 31st March, 2022 that the District Inspector of Schools shall not reject the prayer of the petitioner for grant of higher scale of pay on the ground of absence of prior permission as required under the Circular dated 27th November, 2007 on the strength of the ratio of **Adeel Uz Zaman** (supra), as decided by the Hon'ble Division Bench which has subsequently been approved by the Hon'ble Special Bench vide judgment dated 7th February, 2024.

In view of aforesaid discussion, the memo dated 24th June, 2022 issued by the District Inspector of Schools, Kolkata stands set aside.

The respondent authorities are directed to sanction postgraduate scale of pay to the

petitioner from the date of publication of the result of MCA final examination within a period of four weeks from the date of communication of this order.

With the aforesaid observations and directions, the writ petition stands disposed of.

There shall be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)