

Ml- 04.10.2024
314 Ct.18
rkd

W.P.A. 20652 of 2023

Sourov Naskar

-vs-

The State of West Bengal & Ors.

Mr. Samim Ahammed,
Ms. Ambiya Khatun

....for the petitioner.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey

....for the WBCSSC.

Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta

....for the WBSSE.

Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal

....for the State.

Writ petition has been preferred, *inter alia*, praying for granting service benefits from November, 2013 since petitioner was subsequently adjudged as an eligible candidate to be appointed as Assistant Teacher in a Government aided secondary school in connection with petitioner's participation in 12th Regional Level Selection Test, 2011 (for short '12th RLST, 2011').

In support of the case made out in the writ petition reliance is placed on the order passed by the coordinate Bench on 29th June, 2022 on a writ petition being WPA 450 of 2013 (Md. Kamruzzaman & Ors. -vs- The State of West Bengal & Ors.) wherein the coordinate Bench directed appointment

of experts in certain subjects relating to 12th RLST 2011 for re-appreciation of answer keys.

It is also submitted that the present petitioner is one of the petitioners in the writ petition being WPA 450 of 2013. It is contended that for non-compliance of the order dated 29th June, 2022 contempt proceeding was initiated and ultimately accepting the contention of the petitioners, Chairman, West Bengal Regional School Service Commission, South-Eastern Region, Barasat issued recommendation memo dated 30th June, 2023 for appointment of the petitioner as Assistant Teacher in Bio Science (Pass) being an SC candidate.

However, it is also submitted that though recommendation memo was issued on 30th June, 2023 by the concerned authority of the West Bengal Regional School Service Commission but appointment letter was issued on 20th August, 2024 by the Secretary, West Bengal Board of Secondary Education and pursuant thereto petitioner joined the post on 2nd September, 2024.

It is submitted that had the petitioner been appointed at the first instance being an eligible candidate in connection with 12th RLST 2011 in that event the concerned respondent authorities

had to appoint the petitioner in the year 2013 and in support of the same an order dated 23rd July, 2024 issued by the Principal Secretary, School Education Department is placed before this Court and the same is taken on record.

From the said order dated 23rd July, 2024 it appears that in appreciation of grievance of the similarly circumstanced candidates the Principal Secretary directed to allow only incremental benefits notionally with effect from November, 2013.

It is submitted that though prayer has been made for extending the actual service benefits from November, 2013 being the date of first counseling in connection with 12th RLST 2011 but if the same is not granted to the petitioner at least notional benefits should have been granted to the petitioner which should not be confined to incremental benefits only as it has been allowed by the Principal Secretary vide order dated 23rd July, 2024.

State respondents and the West Bengal Central School Service Commission are represented by learned advocates.

Board is also represented by the learned advocates.

Submission has been made on behalf of the

State respondents in order to substantiate the order passed by the Principal Secretary on 23rd July, 2024.

It is also contended on behalf of the Commission as well as Board that date of reckoning notional benefits should not be from November, 2013 but it should be from the date of last phase of counselling in connection with 12th RLST 2011 which was held in 2015.

On consideration of the relevant facts, it appears that if the petitioner would have been appropriately considered by the Commission since petitioner participated in 12th RLST 2011 then indisputably he would have been appointed in the post of Assistant Teacher either in November, 2013 or in the year 2015 or prior to 2015. In the given situation the Principal Secretary by passing order dated 23rd July, 2024 has already granted notional incremental benefits with effect from November, 2013 not from the year 2015.

Taking cue from the stand taken by the Principal Secretary as it emanates from the order dated 23rd July, 2024, this Court finds that the appropriate date should be from November, 2013 not from the year 2015.

Question arises whether petitioner should

be granted notional incremental benefits or notional benefits from November, 2013. Ultimately petitioner was considered to be an eligible candidate to be appointed in the post of Assistant Teacher which led the concerned authority of the West Bengal Regional School Service Commission to issue recommendation memo dated 30th June, 2023 and in the event candidature of the petitioner would have been appreciated at the right time being a participant in 12th RLST 2011, he would have been appointed much earlier. It is also fact that the petitioner could not function as Assistant Teacher prior to 2nd September, 2024.

Notional benefit should not be restricted to increments only but giving effect to the notional benefits pay of the petitioner needs to be fixed on the date of his appointment on and from 2nd September, 2024 when petitioner joined the post.

Therefore, the concerned State respondents are directed to grant notional benefits to the petitioner from November, 2013 and fix the pay of the petitioner from the date of his appointment accordingly. For computation of other benefits including pension date of appointment of petitioner to be reckoned as 1st November, 2013. However, petitioner is not entitled to receive monetary

benefits from 1st November, 2013 to 1st September, 2024.

The aforesaid exercise shall be completed by the Commissioner of School Education being respondent no.5 by eight weeks from the date of communication of this order.

An order is to be passed by the respondent no.5 in this regard which is to be communicated to the petitioner by two weeks thereafter.

With the aforesaid direction, the writ petition stands disposed of.

There shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)