

Court No. 22  
**05.02.2024**  
(Item No. 77)  
(AB)

**IN THE HIGH COURT AT CALCUTTA**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

**W.P.A. 21543 of 2014**

Prosanta Kumar Bhaskar  
VS  
The State of West Bengal & Ors.  
Md. Manwar Ali  
Ms. Moumita Karmakar  
..... for the petitioner  
Mr. Supriyo Chattopahyay  
Mr. Gourav Das  
.... For respondent Nos. 1-3

This is a hearing matter.

The departmental note dated July 9, 2015 suggests that despite there being direction on August 22, 2014 no affidavit-in-opposition was filed. The writ petition is pending since 2014. Considering the issue involved in this writ petition this Court is of the opinion that, no fruitful purpose shall be served by keeping this writ petition pending for affidavit any further. Accordingly, the writ petition has been taken up for final consideration.

On the prayer of Md. Manwar Ali, learned counsel appearing for the petitioner leave is granted to the petitioner to correct the name of the School appearing against respondent No. 5 in the cause title by putting the signature of the learned advocate on record for the petitioner in course of the day.

The petitioner claimed to be an **Assistant Teacher** joined at **Laskarpur High School (H.S.), District Murshidabad**. The petitioner had joined the School on **March 13, 2006** when he had already appeared in M.Sc. part - I at the relevant subject and

the petitioner received his employment as such. The petitioner after joining his employment completed M.Sc. part - II and the examination was completed on **June 2, 2006**. The necessary prior permission was granted in favour of the petitioner by the Managing Committee of the School. The result for M.Sc. Part – II was published on **August 4, 2006**. The study leave was granted by the West Bengal Board of Secondary Education on **October 11, 2010, Annexure P-3 at page 23** to the writ petition. The petitioner applied for approval of Master degree on **November 1, 2011, Annexure P-4 at page 24** to the writ petition.

The respondent No. 3 by its communication dated **July 11, 2014, Annexure P-7 at page 32** to the writ petition granted the petitioner the higher pay scale commensurating with his M.Sc. degree in the relevant subject. The financial benefit was granted with effect from **March 21, 2014** being the date of the order of a co-ordinate bench in the previous writ petition filed by the petitioner, **Annexure P-6 at page 26** to the writ petition.

The grievance of the petitioner is that, the petitioner ought to have been granted the financial benefit with effect from **June 3, 2006**.

Md. Manwar Ali, learned counsel appearing for the petitioner submits that, the rule is well settled that, the petitioner should have been granted the financial benefit for M.Sc. scale on and from the

following date of the last examination. Accordingly, the petitioner is eligible to receive his claim for higher pay scale without financial benefit on and from **June 3, 2006**.

Mr. Gourav Das, learned State counsel appearing for respondent Nos. 1 to 3 submits that, the petitioner applied before the Managing Committee of the School only on **November 1, 2011, Annexure P - 4** at **page 24** to the writ petition.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record it appears to this Court that, the issue is well settled. This Court has already delivered a judgment on **July 19, 2023 In the matter of: Smt. Payel Jana (Panja) Vs. The State of West Bengal & Ors. rendered in W.P.A. 18770 of 2012**. The relevant portion of the said judgment is quoted below:

“The relevant portions from the said Division Bench judgment **In the matter of: Sri Sukesh Majumder (supra)** are quoted below:

**‘Thus, the crux of the instant lis is as to whether the petitioner has violated any provision laid down by the Government in respect of obtaining higher qualification prior to being in service and, after achieving the same, praying for higher scale of pay.**

**The Government of West Bengal, School Education Department, Secondary Branch Order being No. 548-SE (S) dated 24th June 1997 reads as follows:**

**“No. 548-SE(S) Dated: the 24th June, 1997.  
To: The Director of School Education, West Bengal  
Sub: Recognition of correspondence courses  
conducted by the different Universities of India.**

**The undersigned is directed by the order of the Governor to say that henceforth all the teachers teaching in different state-aided schools will have to take prior permission from the District Inspector of Schools (SE) through the Managing Committee, Ad hoc Committee/Administrator as the case may be if they like to enroll themselves and to appear for the examination conducted through Correspondence/ Distance Mode of education from the UGC-affiliated universities. The Managing Committee of the concerned school shall send such cases to DI (SE) for approval along with their comments, including, inter alia, the relevance of the subject of higher studies and also whether such higher studies are likely to affect the duties of the teacher in the school”**

**From the aforementioned Government Order it reveals that all the teachers teaching in different State aided schools will have to take prior permission from the DI (Secondary Education) through the Managing Committee, Ad-hoc Committee/ Administrator as the case may be if they wish to enroll themselves and to appear for the examination conducted through correspondence/distant mode of education from the UGC-affiliated universities.**

**In this instant case the writ petitioner got admitted to the masters degree course in English in the University of Burdwan in the session 2003-2005 and appeared in the M.A. Part – I examination 2005 and M.A. Final Examination 2006. As such it is evident that the petitioner joined the course for post 6 graduation in English**

prior to her joining the service which was on the 7th day of March in the year 2006, when he joined the Bishpara High School as an Assistant Teacher of English. So the question of obtaining prior permission from the concerned authority does not arise. As such there is no violation by the petitioner in respect of the aforementioned Government Order.

Next, the Government Order being No. 593-SE (B) dated 27.11.2007 states as follows:

*“The School Education Department, Government of West Bengal considers it necessary to publish an order specifying the manner in which a teacher appointed in Honours Graduate/Post Graduate scale of pay will be entitled to claim any additional increment and higher scale of pay upon acquiring Post Graduate/or any Higher Diploma/Degree under Section 14(3) of the West Bengal Schools (Control of Expenditure) Act, 2005.*

*1. All the teachers teaching in different State Aided Schools will have to take prior permission from the Managing Committee/Adhoc Committee/ Administrator as the case may be to enroll themselves and to appear for any examination for enhancement of educational qualification. The Managing Committee being ‘Competent Authority’ in such cases will take a decision in its next meeting and convey its decision to the teacher concerned immediately. A copy of the decision of the Managing Committee will be forwarded to the office of the DI of Schools (SE) of the concerned district.*

*2. The applicant-teacher thereafter, will, if necessary, apply for Leave/Special Leave/ Study Leave as the case may be (along with the resolution of Managing Committee) to the West Bengal Board of Secondary Education (which is*

*the Competent Authority in this case) through the Managing Committee of the School.*

*3. The teacher is required to seek prior permission of concerned District Inspector of Schools (SE) (only when he/she wants to claim additional increment/higher scale of pay etc. for obtaining such higher qualification) through the Managing Committee of the School.*

*4. Provided further that no such permission can be granted on any ground to any teacher who has entered the service/joined the school with Graduate Degree and with a graduate scale of pay. [Any Managing Committee of any school recommending such case and/or any District Inspector 7 of Schools granting such prayer will be treated as an 'Offender' under West Bengal Schools (Control of Expenditure) Act, 2005].*

*5. The courses to be studied should be relevant to the subjects studied in Under Graduate Honours/Post Graduate Course of the Applicant Teacher and none other. The Deemed University/University etc. conducting the examination must be affiliated to UGC."*

From the aforesaid Government Order it reveals that a teacher who is in service has to obtain prior permission from the concerned authority and in the instant case the petitioner had joined her course for post graduation in English prior to joining the service as a School Teacher on 07.03.2006. Therefore, no question of prior permission from the authorities concerned is relevant in case of the appellant/ writ petitioner.

So the appellant/ writ petitioner has not violated either of the aforementioned two orders relying upon which the District Inspector of Schools had rejected the prayer for enhanced scale of pay.

It is also a fact that the appellant/ writ petitioner had completed her Masters Degree in English, the subject which he is teaching in school. Needless to mention that the teacher concerned with her higher degree of qualification in the subject which he is assigned to teach shall only contribute to the benefit of the students and the school.

The aforementioned Government Orders/ circulars hence do not stand in the way to granting benefits of higher scale of pay to a teacher on acquiring higher qualification.

As such the impugned order requires to be interfered with and stands set aside.

The impugned Order of the District Inspector of Schools (Secondary Education), Burdwan also stands quashed.

The appellant/writ petitioner will be entitled to receive the benefit of higher scale of pay for obtaining higher degree of qualification from the date of her preferring the application before the concerned school authority.'

In view of the settled law as discussed above, the impugned order dated **July 11, 2014, Annexure P-7**, at **page 32** to the writ petition, in the firm opinion of this Court should be and accordingly stands modified directing the respondent No. 3 to grant the financial benefit commensurating with his M.Sc. degree on and from the date of his application being **November 1, 2011, Annexure P-4** at **page 24** to the writ petition.

The respondent No. 3 shall take all further and consequential steps to allow the petitioner to receive the higher pay scale as discussed above positively

within a period of **six weeks** from the date of communication of this order. The relevant School authority shall also take all necessary and consequential steps in this regard strictly in accordance with law.

With the above observations and directions this writ petition being **W.P.A. 21543 of 2014** stands allowed, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**(Aniruddha Roy, J.)**