

Item- 58.	17-01-2024	FMA 1329 of 2022 CAN 1 of 2023
sg	Ct. 8	Sukdeb Patra Versus The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharyya, Adv.
Mr. Bidhan Biswas, Adv.
...for the appellant
Mr. Sanjib Das, Adv.
...for the State

1. We have heard the learned Counsel for the parties.
Admittedly, the petitioner was appointed to the post of Librarian after obtaining prior permission from the authorities and thereafter he has enhanced the qualification on 14th May, 2004. Although, the claim for higher scale of pay on acquiring higher qualification in M.Com may not be justified as M.Com is a non-relevant subject, however, his claim for highest scale of pay upon acquiring higher degree i.e. Master's Degree in Library and Information Science on 14th May, 2004 is a factor that is required to be taken into consideration in deciding the application for higher scale of pay in terms of the relevant circular existing at the relevant point of time.
2. It is also brought to our notice that the persons, who have acquired higher qualification in non-relevant subjects, have been extended financial benefit which appears to be de-hors the relevant circulars.
3. Curiously, the claim of the petitioner was denied on the ground that he has acquired higher qualification in non-relevant subject which appears to have been overlooked in

the case of two other persons, namely, Tapan Kumar Maity and Lakshman Chandra Kuila.

4. However, we make it clear that in the event higher scale of pay was accorded to them by reason of any Court's order, it shall not be disturbed. Moreover, we have not heard the said persons and it was for the Commissioner, School Education to take into consideration such facts as it entails government exchequer.
5. The prayer of the writ petitioner for higher scale of pay shall be disposed of by the Commissioner of School Education within a period of eight weeks from the date of communication of this order by either of the parties after giving a reasonable opportunity of hearing to the writ petitioner including the school and all persons interested.
6. The order dated 23rd October, 2013 and the impugned order dated 26th August, 2022 are, accordingly, set aside. The appeal is allowed.
7. Accordingly, the appeal and the connected applications are disposed of. However, there shall be no order as to costs.
8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)