

Sl. No.A198
29.11.2024
Suman
Ct. 18

WPA 23994 of 2023

Manabendra Sarkar
Vs.
The State of West Bengal and Ors.

Sk. Sahjahan Ali
..for the petitioner

Mr. Suman Dey
Mr. Nirmalya Roy
..for the State

Affidavit of service filed on behalf of the
petitioner is taken on record.

By presenting this writ petition, *inter alia*, the
petitioner has prayed for sanction of PostGraduate
scale of pay.

Learned advocate representing the petitioner
submits that he was appointed as an Assistant
Teacher in Mathematics on 19th August, 2010 based
on recommendation Memo dated 20th July, 2010
issued by the concerned authority of the West Bengal
Regional School Service Commission, Eastern Region,
Burdwan. It is also submitted since the petitioner was
recommended by the West Bengal Regional School
Service Commission, Eastern Region to be appointed
as Assistant Teacher in Mathematics under Honours

category, from the date of his appointment in the school, he is enjoying Honours Graduate scale of pay.

After joining his post through school authority where the petitioner was serving, an application was made to the District Inspector of Schools (SE), Birbhum being respondent no.3 for according prior permission which would enable the petitioner to enroll his name with the university for higher course of studies to acquire postgraduate qualification in relevant subject of teaching. On receipt of such application, respondent no.3 by issuing Memo dated 30th June, 2011 granted permission to the petitioner to undergo higher course of studies through correspondence course without hampering his regular duty as an Assistant Teacher.

Pursuant to such prior permission dated 30th June, 2011 the petitioner completed higher course of studies and acquired Postgraduate degree in Mathematics in the year 2019. The petitioner prays for sanction of Postgraduate scale of pay in consideration of his higher qualification.

It is also submitted on behalf of the petitioner that meanwhile he has been transferred vide order dated 11th March, 2022 from Edrakpur High School to Kharua Rajapur High School, North 24 Parganas.

State respondents are represented by the learned advocate who has drawn attention of this

Court to a Memo dated 28th November, 2019 issued by the respondent no.3 whereby views of Commissioner of School Education being respondent no.2 were solicited keeping in view of the fact that the petitioner has obtained higher qualification after the West Bengal Schools (control of Expenditure) (Amendment) Ordinance, 2016.

In connection with such Memo dated 28th November, 2019, in reply, it has been submitted by the learned advocate representing the petitioner that since he was appointed on 19th August, 2010 and prior permission was accorded on 30th June, 2011 permitting the petitioner to undergo higher course of studies, the West Bengal Schools (control of Expenditure) (Amendment) Ordinance, 2016 shall have no application in the case of sanctioning postgraduate scale of pay in favour of the petitioner.

Having considered the submission made on behalf of the parties, this writ petition stands disposed of directing the Commissioner of School Education, West Bengal, respondent no.2 to decide the entitlement of the petitioner to receive Postgraduate scale of pay by passing a reasoned order within a period of twelve weeks from the date of communication of this order. Before taking decision, the petitioner or his representatives shall be granted an opportunity of hearing. The decision to be taken by the respondent

no.2 shall be communicated to the petitioner by two weeks thereafter.

The petitioner shall be at liberty to rely upon relevant orders and Government Circulars including the judgment of the Hon'ble Special Bench dated 7th February, 2024.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)