

M/L 682
01.5.2024
Court No.18
SD

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 24850 of 2023

Md. Samiul Haque

Vs.

The State of West Bengal & Ors.

Sk. Sahjahan Ali

...for the Petitioner.

Mr. Dwarknath Mukherjee

Mr. Sabyasachi Mondal

...for the State.

Affidavit of service filed on behalf of the petitioner is kept with the record.

The petitioner is an approved Assistant Teacher of Ulla Kalsara Kadria High Madrasha (H.S.), District – North 24 Parganas of the subject Mathematics.

The District Inspector of Schools (S.E.), District- 24 Parganas (North), the respondent no. 4 herein by the impugned memo bearing no. 456/1(1)/g dated April 16, 2013 has rejected the prayer of the petitioner for higher scale of pay on enhancement of his qualification in the relevant subject on the ground that the petitioner did not obtain prior permission of the said respondent to pursue his such higher studies.

Mr. Ali, learned advocate for the petitioner submits that the petitioner was pursuing his said higher studies before joining in the service, therefore no situation to take such prior permission arose, consequently, denial of said higher scale of pay for want of such prior permission is not sustainable. He further submits that the issue is now settled by different judgments of this Court, particularly, by the judgment of the Division Bench of this Court.

It appears from the impugned memo that the respondent no. 4 was not apprised of the aforesaid judgments of this Court at the

time of consideration of the prayer of the petitioner, as such the said prayer deserves a fresh consideration on the basis of the said judgments.

To facilitate the said consideration, the impugned Memo is therefore set aside.

The respondent no. 4 is directed to re-consider the entitlement of the petitioner to receive higher scale of pay, as prayed for, if necessary, after giving him/his representative an opportunity of hearing. The petitioner is obliged to place all relevant judgments of this Court before the said respondent at the time of said consideration.

The respondent no. 4 shall return his findings on the referred issue within a period of eight weeks from the date of communication of this order.

W.P.A. 24850 of 2023 is thus disposed of with the above terms without any order as to costs.

Since no affidavit has been invited, the allegations made in the writ petition are deemed to have been denied by the respondents.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)