

18.04.2024.
Court No. 13
Item No. 1
ap

W.P.A. No. 27564 of 2023

**Charu Giri @ Manna
Versus
The State of West Bengal & Ors.**

Mr. Saibal Acharyya,
Mr. Manoranjan Jana,
Ms. Mitali Jana.

...For the petitioner.

Mr. Supriyo Chattopadhyay, AGP
Mr. Suman Dey.

...For the State.

1. The District Inspector of Schools (PE), Purba Medinipur has filed a report by way of an affidavit, which is taken on record.

2. It is clear and explicit from the report that the petitioner has been given "A" Category Pay Scale since her entry into service based on a Bal Sevika Certificate.

3. The said certificate is not recognized, even for the purpose of a contractual or temporary teacher receiving honorarium as held by the Gauhati High Court in the case of ***Indian Council For Child Welfare -Vs. - Bal Sevika Associations & Ors.*** reported in ***(2005) 1 GLR 79.***

4. Counsel for the petitioner, Mr. Acharyya, relies upon a Notification of the year 1964 issued by the Government of West Bengal, School Education Department, recognizing Bal Sevika Certificate. Such notification cannot be applied to the petitioner as the

teachers training facilities available in the year 1964 must have been limited.

5. As on 1993 when the petitioner joined the service, several recognized and modern training courses like PTTE etc. for Primary Teachers were available. The petitioner was wrongly given “A” Category Pay Scale from the year 1993.

6. The question that remains to be considered is the recovery that has to be effected from the petitioners.

7. Counsel for the State has placed reliance upon a decision of this Bench dated 20th February, 2024 in W.P.A. No. 3735 of 2023 (Gita Bhaumik Pramanik –Vs. – The State of West Bengal & Ors.).

8. In the said decision while holding that Bal Sevika Training Certificate is not recognized as Training Qualification for the Primary Teachers, this Court had on concession given by the petitioner, allowed 50% recovery to be made of the excess amount drawn by the petitioner during her service tenure.

9. Mr. Acharyya, Counsel for the petitioner submits that his client is not willing to give any such concession in the instant case.

10. In those circumstances, applying the principles laid down in the case of ***State of Punjab & Ors. – Vs. – Rafiq Masih (White Washer) & Ors.*** reported in **(2015) 4 Supreme Court Cases 334**, this Court directs that no recovery from the petitioner ought to be

made from her terminal dues. "A" Category Pay Scale given to the petitioner from the inception was not on account of any fraud or overt act on the part of the petitioner. The same was a mistake on the part of the respondents.

11. However, for the purpose of pension and for issuance of Pension Payment Order, the last drawn salary of the petitioner shall be recalculated on the basis of the actual pay scale payable to the petitioner minus her "A" Category Pay Scale.

12. Let Pension Payment Order be issued to the petitioner within a period of one month from date. The Sub-Inspector of Schools (PE), Pichhaboni Circle, Purba Medinipur shall forward the service books of the petitioner and the calculations as directed hereinabove to the Director of Pension, Provident Fund and Group Insurance, West Bengal within a period of two weeks from date.

13. Let pension be released to the petitioner together with arrears within a period of one month after issuance of Pension Payment Order.

14. With the aforesaid directions, the instant writ petition shall stand disposed of.

15. There will be no order as to costs.

16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)