

WPA 28490 of 2016

**Debjani Ghosh
Vs.
State of West Bengal & Ors.**

**Mr. Ekramul Bari,
Mr. Sk. Imtiaj Uddin.
... for the petitioner**

**Mr. Jahar Dutta,
Mr. Supriya Majumder.
... for the State respondent**

1. The writ petitioner is aggrieved that pursuant to her higher qualification, the concerned respondent authority has not extended her the higher grade of scale.
2. The writ petitioner joined in Bhatar Girls' High School, on 27.02.2006 as an Assistant Teacher, having honours graduate qualification. The fact remains that at the time of joining, the writ petitioner was pursuing M.Sc. course and had completed Part – I examination thereof. After joining the school as an Assistant Teacher, she obtained permission from the concerned respondent authority for study leave, which was granted, in her favour.
3. Later on, she duly qualified in the Part – II examination of the M.Sc. and thus, she obtained M.Sc. degree, on 21.07.2006.
4. Now it was her turn to seek for enhancement of scale of pay in terms of her enhanced qualification. Thus, she applied for the same. However, the letter of the District Inspector of Schools (Secondary Education),

Burdwan dated 01.08.2012 was issued, rejecting her prayer on the ground that the writ petitioner has obtained her qualification, after entering into the service, though without taking any prior permission from the said authority.

5. The issue was again taken up and considered by the Commissioner of School Education, West Bengal, vide his letter dated 16.04.2013. The said authority also took a similar point of view that the Directorate would not be in a position to grant higher scale of pay in favour of the writ petitioner, in so far as, that would include financial burden and require mandatory compliance of the existing rules that the writ petitioner would have obtained a prior permission of the authorities before pursuing the higher education. The authority had decided that since no permission was taken priorly, there has been violation of the rules. Hence, granted no relief to the writ petitioner.
6. A Hon'ble Larger Bench of this Court was in seisin of matters, involving the self-same issues. The Larger Bench has been pleaded to deliver a judgment on the same on 07.02.2024. The relevant portion of which may be quoted as hereinbelow:-

“f) In respect of Anupam Santra (supra) and Chandra Bhusan Dwivedi (supra) we are of the view that the date of convocation is not relevant for the purpose of entitlement to higher scale of pay. The relevant date would be the declaration and/or publication of results and the teacher should be entitled to draw pay of post graduate teacher category in terms of Government Order No.1595-SE(S) dated 26th December, 2005.

g) If a teacher has partially completed higher study before entering service he/she would come under purview of G.O. No.1595-SE(S) dated 26th December, 2005 and the question of taking permission from DIS-SE concerned would not arise.”

7. Thus, the issue is now settled and there is no reason to linger this writ petition any further. Pursuant to the decision of the Hon'ble Larger Bench and in view of the facts and circumstances of the present case, this Court is of the opinion that the writ petitioner, since has entered into service during pursuing her higher education, she would not be required to take permission in terms of the Government Notification regulating and setting up provisions for grant of higher scale of pay.

Rather, pursuant to her higher qualification, the writ petitioner is entitled to the higher scale of pay, as applicable.

8. Thus, the writ petition should succeed.

9. The impugned orders of the District Inspector of Schools (Secondary Education) Burdwan dated 01.08.2012 and that of Commissioner of School Education, West Bengal dated 16.04.2013 are hereby set aside.

10. Writ petition being W.P.A. No. 28490 of 2016 is allowed.

11. District Inspector of Schools (Secondary Education), Burdwan is directed to immediately release salary and others at the higher grade of pay scale, in favour of the writ petitioner, with effect from 21.07.2006, that is, the date of publication of the result of the M.Sc. examination of the writ petitioner.

12. Let the said respondent comply with the order as above, within a period of four (4) weeks from the date.

13. The School Authorities are directed to immediately forward relevant papers to the concerned respondent, so that the pay fixation of the writ petitioner be forthwith.
14. The Writ petition being W.P.A. No. 28490 of 2016 is disposed of.
15. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rai Chattopadhyay, J.)