

30.01.2024
Item No.23
Court No.550
Saswata

W.P.A. 32507 of 2014
Asutosh Garain
-vs-
The State of West Bengal & Ors.

Mr. Sirsanya Bandyopadhyay
Ms. Tapati Samanta

...For the State respondents

1. Ms. Samanta, learned advocate led by Mr. Bandyopadhyay, appearing for the State respondents submits that the order dated 25th January 2024 passed in the connected writ petition being WPA 28964 of 2014 has duly been communicated to the learned advocate representing the petitioner.
2. Today at the time of call, the petitioner is not represented.
3. This matter pertains to a claim for extending benefits of higher scale of pay for acquiring higher qualification, i.e., Bachelor Degree in Library and Information Science in terms of paragraph 16 (3) of the Memorandum no. 33-Edn(B) dated 7th March 1990 (hereinafter referred to as the “said Memo”).
4. Ms. Samanta, by placing before this Court the judgment and order dated 4th May 2018 delivered by a Division Bench of this Court in the case of **Pradip Kumar Karak & Ors. v. State of West Bengal & Ors.**, reported in **2018 (4) CHN (Cal) 131**, submits that the librarians who had acquired higher qualifications after 21st July 1990 have no legal right to move the writ Court for enforcement of the terms of the unamended paragraph 16(3) of the said Memo.
5. It is still further submitted that the Division Bench had categorically observed that only those librarians who had acquired higher qualifications before the cut off date i.e. 21st July 1990, are entitled to the claim that they be treated at par with the librarians who were before the Hon’ble Supreme Court as respondents, in Civil Appeal nos. 6967-6970 of 2009

(in re: **State of West Bengal & Ors. v. Shibnath Koley & Ors.**).

6. By drawing attention of this Court to a copy of the petitioner's certificate of Bachelor of Library and Information Science examination issued by the Indira Gandhi National Open University, which forms annexure to the instant writ petition, it is submitted that the petitioner had appeared in the said examination in December 1993 and as such, the aforesaid qualification was acquired by the petitioner after the cut off date.
7. She further submits that the aforesaid judgment delivered by the Division Bench of this Court in the case of **Pradip Kumar Karak & Ors.** (*supra*) was unsuccessfully challenged before the Hon'ble Supreme Court in the Special Leave Petition (C) no. 23314 of 2018. Having regard to the aforesaid it is submitted that the petitioner is not entitled to the benefits of the unamended paragraph 16 (3) of the said Memo.
8. Heard Ms. Samanta, learned advocate appearing for the State respondents and considered the materials on record. Taking note of the judgment delivered by the Division Bench of this Court in the case of **Pradip Kumar Karak & Ors.** (*supra*) and the subsequent dismissal of the Special Leave Petition as aforesaid, by order dated 24th September 2018 and further taking into consideration the fact that the petitioner had acquired higher qualification after 21st July 1990, the petitioner can have no legal right to move the instant writ petition for enforcement of the terms of the said Memo.
9. In view thereof, no relief can be granted to the petitioner in the instant writ petition.
10. The writ petition fails and is accordingly dismissed without any order as to costs.

(Raja Basu Chowdhury, J.)