

CALCUTTA HIGH COURT IN THE CIRCUIT BENCH
AT JALPAIGURI

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16.12.2024
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WPA 2589 of 2024

Tapas Barman
Vs.
The State of West Bengal & Ors.

Mr. Saharyan Alam
Mr. Debanjan Das
....For the petitioner

Mr. Pretom Das
Mr. Kumar Shantanu
...for the State

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

By presenting this writ petition, *inter alia*, petitioner has prayed for sanction of “A” category scale of pay being a primary teacher working under District Inspector of Schools (Primary Education) Alipurduar. It is contended on behalf of the petitioner that he obtained D.El.Ed degree from National Institute of Open Schooling and the examination was held on 15th March, 2019 and 16th March, 2019. Therefore, it is submitted that petitioner needs to be adjudged as an eligible candidate to get “A” category scale of pay since

within the cut off date i.e. 31st March, 2019 examination was complete and the petitioner qualified the said examination.

It is also submitted that petitioner is a primary teacher having graduation degree. Therefore, he is not required to obtain 50% marks in Higher Secondary Examination since in terms of notification dated 30th August, 2017 condition of obtaining 50% marks for general candidates and 45% marks for candidates under reserved categories, has been relaxed.

In support of such contention reliance is placed on the order passed by a coordinate Bench on a writ petition being **WPA 3713 of 2024 (Sudipta Halder Vs. The State of West Bengal & Ors.)** dated 3rd April, 2024.

On the contrary learned advocate representing State-respondents submits though examination was held for obtaining D.El.Ed degree on 15th March, 2019 and 16th March, 2019 but result was published after the cut off date i.e. 31st March, 2019 which makes the petitioner ineligible to receive “A” category scale of pay. In addition thereto, notice of this Court has been drawn to page 14 of the writ petition wherein it has been stated that the petitioner was not certified due to not fulfilling the

eligibility criteria of 45% marks in class XII. Therefore, according to the State-respondents petitioner is not entitled to receive “A” category scale of pay.

Issue of entitlement of a primary teacher to receive “A” category scale of pay has been decided by the coordinate Bench in the order dated 3rd April, 2024 wherein it has been held that the primary teacher is entitled to receive higher scale not based on date of publication of result but based on last date of examination. In the present case petitioner’s last date of examination was 16th march, 2019. Apart from this aspect if petitioner is a primary teacher with graduation in that event in terms of notification dated 30th August, 2017 petitioner is not required to obtain 50% marks in Higher Secondary Examination.

In view of aforesaid scenario Director of School Education, West Bengal is directed to decide the entitlement of the petitioner to receive “A” category scale of pay since he has obtained D.El.Ed qualification and the last date of the examination of the petitioner was within the cut off date of 31st March, 2019, by passing a reasoned order within a period of 12 (twelve) weeks from the date of communication of this order. At the time of deciding

the issue Commissioner of School Education being respondent no. 2 is directed to follow the order passed by the coordinate Bench on 3rd April, 2024 in **Sudipta Halder** (supra). Before passing reasoned order Commissioner shall grant opportunity of hearing to the petitioner and the District Inspector of Schools (Primary Education) Alipurduar or their representatives. The decision to be taken by the respondent no. 2 shall be communicated to the parties by 1 (one) week thereafter.

The writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)