

OD-07

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE

WPO/573/2019

PRIYABRATA DASGUPTA
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE:
THE HON'BLE JUSTICE RAI CHATTOPADHYAY
DATE : 20th August, 2024.

Appearance:

Mr. Shakti Pada Jana, Adv.
Mrs. Ujani Pal (Samanta), Adv.

.... For the petitioner

The Court:- Once the writ petitioner was aggrieved due to inaction of the respondent authority in approving his service. For this he sought for intervention of this Court by filing a writ petition being WP 23326 (w) of 2010. The Court intervened and directed the District Inspector of Schools to consider the issue of approval of the petitioner after affording hearing of him.

The resultant order is that dated February 1, 2011, by dint of which the respondent No. 3/the District Inspector of Schools (SE), Kolkata, after considering petitioner's case, has directed, that the petitioner be provided

approval and allowed to enjoy Pass Graduate scale of pay in the light of G.O. No. 670 S.E.(S) dated 04.09.1998 and G.O. No. 1691 S.E.(S) dated 20.09.2001.

That has become the cause of further discontent of the petitioner and he has been aggrieved with the said order of the respondent No. 3 dated February 1, 2011. Hence, this writ petition is filed by him to seek a higher pay scale to be granted to him, from the date of his initial appointment, with effect from which date his service have been approved.

Mr. Jana, learned advocate has appeared for the writ petitioner in this case. He has placed the petitioner's case in a manner that the petitioner after being initially appointed in the respondent DA getting school on July 20, 2006 as a trainee teacher, was given temporary status vide letter dated July 20, 2008. His service was confirmed thereafter vide letter dated December 14, 2009.

Later on by dint of resolution dated June 17, 2010 the school Managing Committee decided to accord approval to the petitioner as M.Sc. in Environmental and Ecology teacher, against the separate post in Environmental Education or under the sanctioned post (in place of Mr. P.S. Pandey since retired).

A similar proposal was forwarded to respondent No. 3/DI, proposing to approve the petitioner in either of the capacity as mentioned above.

In so far as the qualification of the petitioner is concerned, Mr. Jana has indicated that in 1999 the petitioner had completed his Bachelor Degree. In 2002, he has completed one year “Post B.Sc. Application Oriented Course” in Science and on October 6, 2004 the petitioner has completed his M.Sc. Course in Ecology and Environment and was granted a degree by the Sikkim Manipal University on November 21, 2005.

Mr. Jana has further indicated that in accordance of the staff pattern of the school and in view of proposal of the school Managing Committee that he should be approved in the Environment and Ecology against the separate post in Environment Education, he must be granted the higher pay scale commensurate with his qualification, which is relevant to the subject of teaching of the petitioner.

Mr. Jana has further indicated that in case the respondent No. 3 by dint of the impugned order has placed the petitioner in vacancy which arose due to retirement of the teacher namely Mr. P. S. Pandey, who was an approved teacher in the higher pay scale, the writ petitioner would also be entitled to the said higher pay scale particularly when the writ petitioner is duly qualified with higher degree.

An appropriate order has been sought for in this writ petition.

None appears for the respondent in spite of service of notice. Hence, the matter is taken up for consideration and order in absence of the respondents.

In the present writ petition the petitioner has challenged the order of the respondent No. 3 dated February 1, 2011. However, it is not the entire order but a part thereof, which has been challenged by the petitioner. By dint of the same the respondent No 3 has granted approval to the writ petitioner as against the vacancy which arose due to retirement of another approved Assistant Teacher namely, Mr. P. S. Pandey, notionally with effect from June 8, 2010, that is, date of retirement of Mr. P.S. Pandey and financially with effect from the date of the order, that is, February 1, 2011. The respondent No. 3 has approved the service of the writ petitioner as against the Pass Graduate scale of pay.

So far as the grant of approval is concerned the petitioner has not challenged the said portion of the order. The challenge of the petitioner is twofold. That firstly that he should have been paid the higher pay scale pursuant to his qualification as well as staff pattern of this school and the benefit should have been provided to him from the initial date of his appointment.

The petitioner's appointment and confirmation are on July 20, 2008 and December 14, 2009, respectively, when the West Bengal Schools (Control of Expenditure) Act, 2005 has come into effect. The provisions of the same covers a recognised Non-Government Institution receiving grant from the State Government in the form of dearness allowances for its teachers and non-teaching staff. Admittedly, the respondent school falls within the category as

prescribed in the said Act, as mentioned above. According to Section 14 of the said Act which has provided for 'pay of teacher', every teacher shall be entitled to draw pay in which he has been appointed and shall not be entitled to claim any higher scale of pay for the reason of acquiring or possessing higher qualification, other than the qualifications specified for such post. It has also been provided that a teacher appointed for Class VI to VIII and IX to X shall be entitled to draw pay meant for graduate teacher and shall not be entitled to any higher scale of pay in acquiring any qualification other than the qualification specified for such post.

The writ petitioner is admitted as a teacher imparting education in the normal scale in the said DA getting school. Accordingly in terms of the said statute provisions, he would not be entitled to any other scale of pay excepting that of a pass graduate pay scale.

Therefore, the Court finds no infirmity or illegality in the order, passed by the respondent No. 3, dated February 1, 2011 and no reason for any interference thereto.

In consideration as above the Court finds no merit in the petitioner's grounds and prayer in this case. The petitioner would not be entitled to grant of higher pay scale pursuant to the provisions of law and therefore his prayers are liable to be rejected.

Hence the writ petition being WPO 573 of 2019 is dismissed.

Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(RAI CHATTOPADHYAY, J.)

Tudu/p.a