

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/443/2023
WPO/116/2020
GA/2/2023

ASHRAM DUBEY.
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE MADHURESH PRASAD

The Hon'ble JUSTICE SUPRATIM BHATTACHARYA

Date : 19TH August, 2024.

Appearance:
Mr. Anjan Bhattacharya, Adv.
Ms. Anita Shaw , Adv.
...For Appellant.
Mr. Piush Chaturvedi, Adv.
Mr. Tarun Kumar Das, Adv.
For respondent nos. 4 to 7 .
Sk. Md. Galib, Sr. Govt. Adv.
Mr. K. K. Hossain, Adv.
State Respondent.

1. Heard the parties.
2. The present appeal arises out of an order passed by the Hon'ble Single Judge. Rejection of the petitioner's claim by the D.I. under order dated 03.06.2019 for being considered an approved teacher for the purpose of grant of D.A was the subject matter of the writ proceedings.
3. The order of the D.I. was assailed by the petitioner which has been decided on 19th July, 2022 by the Hon'ble Single Judge. The D.I. had found that there was no vacancy within the sanctioned strength

of teachers in the School. Thus, even if the petitioner worked as a teacher, beyond sanctioned strength prescribed for “D.A. getting teachers”, he cannot be conferred with the benefit of D.A. The said finding has not been interfered with by the Hon’ble Single Judge and upholding the same, the writ petition has been dismissed.

4. Learned Counsel for the appellant submits that the Hon’ble Single Judge has failed to take into consideration the fact that the sanctioned strength has been filled up by the teachers unduly. If the sanctioned strength was filled up by considering and giving due weightage to the qualification/criteria for filling up of the vacancy for getting D.A., one vacancy would have remained on which the petitioner, who is working in the School since long, would have been appointed and got the benefit of D.A.
5. Upon consideration of such submission, and the details regarding sanctioned strength and vacancy position given by the D.I. in the impugned order, the judgment of the Hon’ble Single Judge requires no interference.
6. If there is any illegality in the filling up of the sanctioned vacant post, as alleged by the learned counsel for the appellant, that may be an issue which the petitioner could agitate in a duly constituted proceeding after giving an opportunity to the concerned person. In the present proceedings we find that the petitioner/appellant has not impleaded any of the teachers working on a vacancy within the

sanctioned post. We therefore refrain from going into the issue regarding the legitimacy of appointment of the teachers against the sanctioned vacant post in the present proceeding.

7. We find no merit in the present appeal.
8. The learned Counsel for the appellant submits that liberty be granted to the appellant to seek his remedy in appropriate proceeding. With liberty, as prayed for, this appeal is dismissed.

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(MADHURESH PRASAD, J)

(SUPRATIM BHATTACHARYA, J.)

dg/