

WPA 1001 of 2011

4.3.2025

Ct.25,sl.287.

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Namita Pal-vs-State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya
Ms. Koushikée Banerjee
...for the petitioner.

- 1.** Supplementary affidavit filed by the petitioner is taken on record.
- 2.** None appears for the State respondent, in spite service of notice.
- 3.** Hence, this matter is taken up for hearing and adjudication in absence of the State respondent.
- 4.** The petitioner's grievance is against the order of the Director of School Education, West Bengal dated August 10, 2010 by dint of which the said respondent has turned down and declined to grant the writ petitioner, the benefit of two increments which are scheduled to be granted to the Ph.D. Degree holder, in terms of the provision under Rule 12(5) of ROPA 1998.
- 5.** The petitioner having been appointed in 1996 in the School has enhanced her qualification to the Master's Degree and thereafter in 2002 she has enrolled herself for the Ph.D.Degree.
- 6.** She has completed the Ph.D. Degree and obtained certificate on the date of her convocation, that is April 18, 2004.

7. Mr. Bhattacharya, learned counsel, appearing for the petitioner has submitted that in accordance with the ROPA Rules, 1998, the petitioner would be eligible for grant of two incremental benefits pursuant to her being qualified in Ph.D.Degree with effect from the date of her convocation i.e. obtaining Ph.D.Degree on April 18, 2004. He says to that effect the School Managing Committee has recommended before the respondent authorities for grant of such benefit to the writ petitioner. He has also cited an order of the concerned respondent authority, directing release of similar benefit to other similarly circumstanced school teacher. Therefore, he submits, that the petitioner cannot be deprived of the legitimate claim of two incremental benefits of her, she having qualified in terms of the eligibility criteria for grant of such two incremental benefits as has been provided in ROPA 1998.

8. Mr. Bhattacharya has objected to and disputed the impugned order for the reason that the same is a non-speaking and unreasoned one.

9. Having heard the submissions and after perusal of the records, the submissions made about the factual background of the case, are found to have been duly corroborated with the records.

10. The impugned order is dated August 10, 2010 by the Director of School Education, West Bengal. The said respondent has mentioned that additional increment to the petitioner for acquiring Ph.D.Degree cannot be considered at present. He has not assigned any reason or ground for his inability to allow the benefit to the petitioner or about ineligibility of the petitioner to the same if there is any.

11. Therefore, the Court is in concurrence of opinion with Mr. Bhattacharya, learned counsel for the petitioner, that the impugned order suffers from lack of reasons and is a non-speaking order. Reasons of an order are such essential barrier, to restrain, pacify and nullity on fairplay and arbitrariness, in passing the said order. It is well settled that the reasons are the heart and soul of an order. In such view of the fact, the impugned order being an unreasoned one appears to be not maintainable in the eye of law.

12. So far as the petitioner is concerned, it appears that the petitioner has obtained the Ph. D. Degree on April 18, 2004.

13. In such circumstances, as per ROPA 1998, which is the rules prevalent and applicable in case of the writ petitioner, she is entitled for the two

increments to be granted to her pursuant to her PH.D.Degree and that with effect from date of her convocation, i.e. April 18, 2004.

14. Therefore, in the present case, the Court finds that the statutory right as above of the petitioner can hardly be denied by the respondent authority for any reason whatsoever.

15. Upon the finding as mentioned above, the Court is inclined to allow the present writ petition with the following directions:-

- i) The impugned order dated August 10, 2010 is set aside.
- ii) Let the respondent nos. 2 and 3 be directed to immediately give effect to re-fixation of pay of the writ petitioner by granting her two incremental benefits, with effect from the date of her convocation as mentioned above, within a period of three weeks from the date of communication of copy of this order.
- iii) Let the entire arrear amount be released in favour of the writ petitioner, within a period of four weeks from the date of communication of copy of this order.

- 16.** The writ petition is allowed and disposed of.
- 17.** Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents.
- 18.** Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)