

12  
10.04.2025  
Court No. 25  
D.Hira

**WPA 3105 of 2021**

**Surojit Mandal**

**Vs.**

**The State of West Bengal & Ors.**

**Mr. Sakti Pada Jana,**

**Mr. Subhajyoti Das,**

**Ms. Sudipta Pramanik.**

**... for the petitioner**

**Mr. Bhaskar Prasad Vaisya, Id. A.G.P.,**

**Mr. Mrinal Kanti Ghosh.**

**... for the State**

1. The subject matter of the writ petition is rejection of grant of higher pay scale to the writ petitioner by the District Inspector of Schools, Secondary Education, Barrackpore, North 24 Parganas, pursuant to his obtaining higher qualification.
2. Impugned in this writ petition is the order of the said respondent dated November 12, 2020, by dint of which, the respondent D.I. has rejected the petitioner's claim for grant of higher pay scale.
3. On careful perusal of the impugned order as above, it is found that the reasons cited by the D.I. for his decision to reject the petitioner's prayer as above, is that on the basis of G.O. No. 155-SE(B) dated July 13, 1999 and an Assistant Teacher who is appointed through the West Bengal School Service Commission would not have been eligible for any other pay scale excepting that as mentioned by the Commission as per his qualification.

4. The background fact of the case may be stated in brief, in the manner as follows. On December 1, 2003, the writ petitioner has been appointed as the Assistant Teacher of the school, in the category of Honours Graduate in Statistics.
5. However, before entering into service, he had already enrolled himself in M.Sc. course and concluded Part-I examinations thereof and enrolled himself in Part-II examinations, after qualifying in Part-I examinations.
6. At this juncture, he has entered into service and thereafter, duly prayed before the School Managing Committee for approval to continue with the course as well as, after completion of the course for grant of higher pay scale. On both the occasions, he has been granted approval by the said authority and the School Authority appears to have sent the documents to the office of the respondent D.I. for sanction of petitioner's respective prayers as above.
7. Mr. Jana, learned counsel appearing for the petitioner has stated that as per the settled position of law, there shall not be any scope and necessity for the petitioner to seek prior permission of the D.I., particularly in the factual background of the present case.
8. He would further submitted that after amendment/modification of the G.O. No. 155-SE(B) dated July 13, 1999 at a subsequent state, its application in the manner as done in the impugned order is only *de hors* the law and should not be considered as justified, legal and proper to be applied to reject the petitioner's claim.

9. The law relating to grant of higher pay scale to the applicant upon being qualified with higher degree has witnessed a sea change, after the judgment of this Hon'ble Full Bench of this in the case of ***Utpal Kanti Karan vs. State of West Bengal & Ors.*** reported in ***2024 SCC OnLine Cal 1274***. Let the relevant portion thereof as quoted below:-

***“272. On the basis of the aforesaid discussion we answer the reference in the manner following:-***

***\*\*            \*\*            \*\*            \*\*            \*\*            \****

***(g) If a teacher has partially completed higher study before entering service he/she would come under purview of G.O No. 1595-SE(S) dated 26<sup>th</sup> December, 2005 and the question of taking permission from DIS-SE concerned would not arise.***

***\*\*            \*\*            \*\*            \*\*            \*\*            \*\*            ”***

10. Admittedly, the writ petitioner has enrolled himself for the M.Sc. course prior to entering into service and concluded the same after being inducted therein.
11. In such circumstances and as per the substantive provision under the law and the notification as mentioned above, the petitioner would be entitled for grant of post-graduate pay scale, pursuant to his post-graduate qualification and with effect from the relevant date as prescribed under law.
12. For the reasons as above, the impugned order of the respondent D.I. dated November 12, 2020 appears to be not in conformity with the law and is thus illegal and to be set aside.
13. Hence, this writ petition is allowed with the following directions:-
- (i). Impugned order dated November 12, 2020 is set aside.

- (ii).** The District Inspector of Schools, Secondary Education, Barrackpore, North 24 Parganas/respondent no. 3 shall pass necessary order granting the writ petitioner post graduate pay scale, pursuant to his post-graduate qualification and with effect from the applicable date, as per law.
- (iii).** Necessary pay fixation be made immediately.
- (iv).** The entire exercise as above shall be concluded within a period of four weeks from the date of communication of this order.
- (v).** Arrear salary, if any, shall be paid within a period of two months from the date of communication of this order.
- 14.** Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.
- 15.** With the above observations and directions, the writ petition being No WPA 3105 of 2021 is disposed of, along with the pending applications, if any.
- 16.** Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Rai Chattopadhyay, J.)**