

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)**

Present:

The Hon'ble Justice Rai Chattopadhyay

**WPA 4363 of 2021
Kali Krishna Das
Vs.
State of West Bengal & Ors.**

With

**WPA 4357 of 2021
Prasanta Hati
Vs.
State of West Bengal & Ors.**

With

**WPA 4367 of 2021
Niranjan De
Vs.
State of West Bengal & Ors.**

With

**WPA 4369 of 2021
Anath Bandhu Singha
Vs.
State of West Bengal & Ors.**

With

**WPA 4374 of 2021
Kajal Chandra Das
Vs.
State of West Bengal & Ors.**

With

**WPA 4375 of 2021
Buddhadeb Pramanik
Vs.
State of West Bengal & Ors.**

With

WPA 4379 of 2021
Somnath Malick
Vs.
State of West Bengal & Ors.

With

WPA 4387 of 2021
Dilip Kumar Pule
Vs.
State of West Bengal & Ors.

With

WPA 4391 of 2021
Adhir Chandra Halder
Vs.
State of West Bengal & Ors.

With

WPA 4399 of 2021
Srikanta Malik
Vs.
State of West Bengal & Ors.

AND

WPA 4397 of 2021
Ranajit Jana
Vs.
State of West Bengal & Ors.

With

WPA 4360 of 2021
Md. Sahidul Islam Mondal
Vs.
State of West Bengal & Ors.

With

WPA 4372 of 2021
Joydev Prasad Biswas
Vs.
State of West Bengal & Ors.

With

WPA 4378 of 2021
Anindya Mukhopadhyay
Vs.
State of West Bengal & Ors.

With

WPA 4382 of 2021
Sandipan Mukherjee
Vs.
State of West Bengal & Ors.

With

WPA 4383 of 2021
Kaushal Kishore Singh
Vs.
State of West Bengal & Ors

With

WPA 4385 of 2021
Saikat Chakraborty
Vs.
State of West Bengal & Ors.

With

WPA 4388 of 2021
Pavel Chakraborty
Vs.
State of West Bengal & Ors.

With

WPA 4393 of 2021
Purnima Mahajan
Vs.
State of West Bengal & Ors.

With

WPA 4395 of 2021
Anupam Sharma
Vs.
State of West Bengal & Ors.

With

WPA 4396 of 2021
Suman Kumar Das
Vs.
State of West Bengal & Ors.

With

WPA 4400 of 2021
Chandana Mondal (Ghosh)
Vs.
State of West Bengal & Ors.

With

WPA 4402 of 2021
Arun Kumar Santra
Vs.
State of West Bengal & Ors.

For the Petitioners : Mr. Nilanjan Bhattacharyya, Id. Sr. Counsel
: Mr. Abhilash Chatterjee.

... for the petitioners in WPA 4397 of 2021,
WPA 4360 of 2021, WPA 4372 of 2021, WPA
4378 of 2021, WPA 4382 of 2021, WPA 4383 of
2021, WPA 4385 of 2021, WPA 4388 of 2021,
WPA 4393 of 2021, WPA 4395 of 2021, WPA
4396 of 2021, WPA 4400 of 2021, WPA 4402 of
2021

: Mr. Bikram Banerjee
: Mr. Sagar Dey
: Mr. Sutirtha Nayek
: Mr. Baibhav Roy

... for the petitioners in WPA 4363 of 2021,
WPA 4357 of 2021, WPA 4367 of 2021, WPA
4369 of 2021, WPA 4374 of 2021, WPA 4375 of
2021, WPA 4379 of 2021, WPA 4387 of 2021,
WPA 4391 of 2021, WPA 4399 of 2021

For the State

: Mr. Pinaki Dhole
: Mr. Sanjib Das

... for the State In WPA 4363 of 2021

: Mr. Pinaki Dhole
: Mr. Sk. Masud.

... for the State In WPA 4374 of 2021

: Ms. Sabnam De Bardhan

... for the State In WPA 4357 of 2021

: Mr. Sanjib Das

... for the State In WPA 4375 of 2021

: Mr. Pinaki Dhole
: Mr. Sanjib Das

... for the State In WPA 4374 of 2021

: Mr. Tulsi Das Roy

... for the State In WPA 4399 of 2021
& WPA No. 4372 of 2021

: Ms. Anjusri Mukherjee

... for the State In WPA 4367 of 2021

: Mr. Mrinal Kanti Ghosh

... for the State In WPA 4387 of 2021

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

: Mr. Sagnik Chatterjee

... for the State In WPA 4369 of 2021

: Mr. Malay Kumar Singh

: Mr. Rakesh Singh

... for the State In WPA 4379 of 2021

: Mr. Arindam Chattopadhyay

: Ms. Lipika Chatterjee

... for the State in WPA No. 4388 of 2021

: Mr. Susanta Pal

... for the State in WPA No. 4395 of 2021

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

: Mr. Mrinal Kanti Ghosh

... for the State in WPA no. 4397 of 2021, WPA No. 4360 of 2021, WPA No. 4378 of 2021, WPA No. 4382 of 2021, WPA No. 5 4383 of 2021, WPA No. 4385 of 2021, WPA No. 4388 of 2021, WPA No. 4400 of 2021

: Ms. Munmun Tewary

: Mr. Sanatan Panja

... for the State in WPA No. 4396 of 2021

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

: Mr. Sagnik Chatterjee

... for the State in WPA No. 4393 of 2021

Judgment : 14.11.2025

Rai Chattopadhyay, J. :-

1. Since prayers in all the writ petitions as mentioned above are similar in nature, those have been heard analogously and are being disposed of by dint of the instant common judgment as follows:-

2. The pay fixation statement of the writ petitioners dated May 06, 2019 has been objected to by the Assistant Director, Dte. of A/Cs (SE), Hooghly commenting thereupon as below: -

“Objection: It appears from the SV & other relevant documents that the pay fixed at 14340/- on 1.7.2006 needs to be reviewed & pay of the incumbent needs to be recast in the light of GO. No. 759 SE (S) dated 30.07.2009 read with 30 SE (B) dated 10.02.2010, 118 SE (S) dated 06.02.2018 & 806 SE (S) dated 08.07.2007.

Overdrawn in pay is to be calculated & recovered as per rule & challan to be annexed.”

3. Hence, being aggrieved the petitioners have filed the instant writ petitions. They have prayed for the relief inter alia that, such comment of objection dated December 27, 2019 be set aside and the petitioners be granted incremental benefit along with benefit of 18 years of continuous service; re-fixation of pay and salary by giving effect to the incremental benefit and not deducting the same; and setting aside of the order of refund of the alleged overdrawn amount dated October 25, 2019 and December 04, 2019 respectively (in two different writ petitions), due to non-completion of B.Ed. within five years of appointment.
4. The factual background of the writ petitions as above are also similar. The petitioners have been appointed as the untrained Assistant Teachers of the respective schools in the year 2001. In accordance with the Rules, the petitioners had to complete their training and qualify in B.Ed. within five years of entering into service that is, in

case of the present petitioners, within 2005. Admittedly, the petitioners could not complete their training qualification within the said stipulated period of time. According to the petitioners, the root cause for the same has been beyond their control and also that the time period for completion of training qualification of each Assistant Teacher has been twice extended by the respondent Authority. According to the writ petitioners, they have completed their training qualification within such extended period of time. Therefore, neither they could have been deprived of the benefit of increment payable to them on the fifth year of their service, nor of the benefit allowable to them after completion of 18 years of their continuous service. Hence, they have filed the instant writ petitions for appropriate relief.

5. Mr. Nilanjan Bhattacharyya, learned senior counsel and Mr. Bikram Banerjee, learned advocate have represented the separate sets of writ petitioners as indicated in the appearance column. On behalf of the petitioners, a letter dated July 30, 2009 of the OSD and ex-officio Joint Secretary, School Education Department, Government of West Bengal addressed to the Director of School Education, West Bengal has been relied on at the outset. The said letter dated July 30, 2009 is regarding the subject matter "Grant of benefit of increment to the untrained Assistant Teachers not undergone completed B.Ed. Training yet". The letter informs that, as per existing Rules/provisions, four increments are allowed to the Assistant Teachers during their first five years of service. Within the first five years of service, they have to

complete the B.Ed. course approved by NCTE. The letter has further informed that, as during the said period, Court cases continued for the last three years, the incumbents concerned were unable to get themselves admitted to the B.Ed. course, therefore, they have been allowed the increments up to the year 2012 as usual and that during that extended period, they must have to complete B.Ed. training. It was said to be the one-time relaxation granted up to the year 2012.

6. However, the petitioners have further referred to the letter of the Joint Secretary to the Government of West Bengal, School Education Department dated February 06, 2018 to submit that the outer limit for the respective Assistant Teachers to complete their B.Ed. course have been extended further by dint of the same. Learned advocates have submitted with reference to the said letter dated February 06, 2018, that one-time relaxation granted earlier vide the letter dated July 30, 2009 has been extended in respect of increments for all untrained teachers appointed during the period from 2006 to 2009 up to July 01, 2015; it has been submitted that the benefit should duly cover the present petitioners too, to which they have been unreasonably deprived of.
7. Learned advocates for the writ petitioners have submitted that, due to pendency of the Court cases, the petitioners have not been granted opportunity to take admission in the B.Ed. course within the stipulated five years from the date of their appointment that is, within

the year 2005. The training course session of 2005-06 was started only in the year 2007 and the results were published in the same year. The writ petitioners joined the B.Ed. Training Course in 2005-06 session which started in 2007 and duly qualified in the same. However, allegedly, without taking into consideration this aspect of the matter, the Assistant Director, Hooghly has objected to the payment of increment for the fifth year to the petitioners, directing for review thereof pursuant to notifications nos. GO No. 759 SE (S) dated 30.07.2009 read with 30 SE (B) dated 10.02.2010, 118 SE (S) dated 06.02.2018 and 806 SE (S) dated 08.07.2007.

8. The State has been represented in this case. The State respondent has specifically relied on the notification No. 890-Edn. (S) dated May 30, 1985 in which it has been provided that -

"All existing untrained Secondary Schools teachers and those who will be appointed on or after 01.4.1981 shall be allowed annual increments in the revised scale of pay for a maximum period of 5 (five) years within which they will have to get themselves trained failing which their increment will be stopped till they get themselves trained."

9. It has further referred to the notification No. 181-SE (B)/5b-1/09 dated October 08, 2009 to submit which has provided for as follows: -

"5(d) Untrained Secondary School Teachers shall be allowed annual increments in revised pay structure on condition that such untrained teachers will have to get themselves trained from any institute recognized by N.C.T.E. in regular or open and distant education mode within 5 years from the date of appointment. An untrained teacher of a recognized Secondary School with ten years teaching experience in recognized school shall be treated as a 'trained' teacher for

the purpose of drawal of increments only (but not for applying to the post of Headmaster as a trained teacher) in the pay structure applicable to the teacher concerned after completion of one year from the date on which the condition of teaching experience is fulfilled.

[The granting of drawal of increment by untrained teachers has been relaxed upto 2012 (one time relaxation) by which they have to complete B.Ed. training has been published under G.O. NO.759-SE (S)/2P-01/2009 dated 30th July, 2009]."

10. It has further been submitted that the petitioners cannot take shelter under the notification dated February 06, 2018 for the reason that the same has extended the time for obtaining adequate qualification for the untrained Assistant Teachers, who have been appointed during the period from 2006 to 2009. He says that, since admittedly the writ petitioners were not appointed during the said period but much prior thereto in 2001, they cannot claim benefit under the notification dated February 06, 2018. He insists that the writ petitions be dismissed.

11. Having heard all the learned advocates and after perusal of record, the Court finds that vide memorandum dated February 10, 2010, it has been provided that the benefit of 18 years of continuous service will be admissible to the teaching and non-teaching employees in the event, he has not got a single promotion/advancement to higher scale during his 18 years of continuous and satisfactory service, after completion of the said period of service and will get an additional increment along with the next higher grade pay over and above the benefit of usual annual increment admissible to him. In terms of notification dated

May 30, 1985, an untrained teacher is to conclude training qualification within five years from the date of his entry. He has to be offered with a position into the training programme by the respondent Authority to which he takes admission to pursue the programme.

12. Due to pendency of litigations, the respondent Authority has not been able to offer vacant position in the course to the incumbents and thus time period for conclusion of the training programme has been extended till 2012 vide letter dated July 30, 2009. Thereafter, vide another notification dated February 06, 2018 such time period is further extended up to July 01, 2015. That the respondents say that the later one was meant for only the untrained teachers who were appointed during period from 2006 to 2009.

13. The interpretation attributed to the provisions outlined in the notification dated February 06, 2018 has resulted in a dichotomy concerning the benefits intended for the untrained Assistant Teachers. Specifically, had the respondent failed to provide any vacant position in the training course for those employed prior to 2006, these individuals would have been deprived of the opportunity to participate in the training course, which is otherwise their statutory right.

14. In such view of the fact, the Court is of considered opinion that by interpreting the notification dated February 06, 2018 in such a manner to segregate the 2001 entrants from the benefit thereunder,

the respondent has made an endeavor to create a class within a class and discriminate amongst the equals without any rationale. It is unavoidable to notice that the petitioners who have been offered the course of 2005-06 in the year 2007 have entered and duly completed therewith. Therefore, by no stretch of imagination, the petitioners can be considered as not to have been covered under the provisions made vide letter dated July 30, 2009 which in fact remains in vogue and not withheld or superceded by any manner whatsoever.

15. In this regard, it would be beneficial to mention an order of the Hon'ble Co-ordinate Bench of this Court dated March 10, 2022 in WPA 4813 of 2018 as referred to on behalf of the writ petitioners. On the similar facts and circumstances, the Court has been pleased to direct therein as to the entitlement of the petitioners to the increment on fifth year of service and consequently the benefit of 18 years of continuous service as per Rules; the Court has set aside the order of withdrawal of incremental benefit of the writ petitioner there and directed to extend the benefit of 18 years of continuous service along with incremental benefits and stands due to the writ petitioner there. The Court has further set aside the objections raised by the Assistant Director of A/Cs. In the factual background of the present writ petitions, the ratio of the decision of the Hon'ble Co-ordinate Bench as above squarely applies to the facts of the instant cases.

16. For all the reasons as discussed above, the Court is of considered opinion that the objections raised by the Assistant Director, A/Cs, Hooghly dated December 27, 2019 is not maintainable. Also, that the writ petitioners should be considered as have duly complied with the Rules of completion of training qualification within the stipulated extended time period. Thus, the writ petitioners are eligible for grant of increment on the fifth year of their service as well as grant of benefits as per Rules on completion of 18 years of their continuous service.

17. Writ petitions as above, are therefore allowed with the following directions: -

- i)* Objection of Assistant Director, A/Cs, Hooghly dated December 27, 2019 is set aside.
- ii)* Writ petitioners are granted the incremental benefit on the fifth year of their service.
- iii)* Writ petitioners are granted the service benefits as per Rules on completion of their 18 years of continuous service.
- iv)* The respondent/District Inspector of Schools (Secondary Education) of the respective districts who are parties in the individual writ petitions as mentioned above are directed to effect the refixation of pay scale of the writ petitioners in compliance with the Court's directions as above.

- v)* The said respondent is directed to comply with above, positively within a period of three (03) weeks from the date of communication of copy of this judgment.
- vi)* The respondent/D.I. is directed to disburse the arrear amount of salary and pay, to the respective writ petitioners, positively within a period of four (04) months.

18. Writ petitions as mentioned above are allowed and disposed of.

19. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)