

10.06.2025
Sl. No. 77
g.b.
Court No.551

W.P.A. 6758 of 2021

Sabyasachi Chakraborty
-Vs-
The State of West Bengal & Ors.

Mr. Sakti Pada Jana
Mr. Subhajyoti Das
Mrs. Sudipta Pramanik
.....For the Petitioner
Mr. Jahar Lal De, Ld. AGP
Ms. Nafisa Begum
.....For the State

1. The petitioner is aggrieved by denial of Post graduate scale of pay to him despite the petitioner having obtained Post graduate degree in English while in service.
2. The petitioner was appointed as an assistant teacher in Jagtala Surjya Kumar Vidyalaya (H. S.) on June 26, 2001. At the time of his appointment the petitioner was a graduate having the degree of Bachelor of Arts with honours in English.
3. While in service, the petitioner on May 15, 2009 made an application to the Secretary of the school through the Headmaster seeking permission for pursuing the course of Master

of Arts in English from Netaji Subhas Open University.

4. Thereafter the Managing Committee of the school adopted a resolution in its meeting held on May 16, 2009 to the effect that the petitioner could be permitted to pursue such course for acquiring Master's degree in English on condition that the petitioner's regular duty in the school remained unhindered and unaffected.
5. Subsequently by a letter dated September 4, 2009 the school authorities intimated the District Inspector of Schools (Secondary Education), South 24 Pgs. that the Managing Committee of the School had consented to the petitioner pursuing the Master's degree course and thereby also sought for the permission of the District Inspector of Schools in such regard. The District Inspector of Schools did not respond to such communication made by the school authorities. The School authorities followed up by another request dated August 30, 2010

but the follow up request also remained unresponded.

6. Since the school authorities had consented to the petitioner pursuing the Master's Degree course and the District Inspector of Schools had chosen to remain silent on two several representations made by the school authorities, the writ petitioner pursued the course and acquired the Master's degree in English upon having passed the examination therefor held in July, 2016.

7. Having thus acquired the Master's degree, the petitioner, by a letter dated August 2, 2017 addressed to the school authorities claimed Post graduate scale of pay while furnishing the requisite documents/certificates in support of the petitioner's claim under the cover of his said letter.

8. The school authority forwarded the petitioner's claim under the cover of its letter dated August 7, 2017 to the District Inspector of Schools (SE), Sough 24 Pgs. Upon such claim being forwarded, the District Inspector of Schools

called the writ petitioner as well as the school authorities for hearing on December 13, 2017 and December 27, 2017. Such hearing was attended by the writ petitioner as well as the teacher-in-charge of the said school. During the said hearing the school authority was directed to submit certain documents and clarifications, which the petitioner claims to have submitted subsequently.

9. However, since no decision on the part of the petitioner's claim for Post Graduate scale of pay has been taken by the District Inspector of Schools, the writ petitioner has approached this court by way of the present writ petition seeking issuance of a Writ of Mandamus directing the respondents to release the Post graduate scale of pay in favour of the petitioner.

10. At the very outset Mr. Dey, learned advocate appearing for the State has handed up a copy of the instructions given to him by the District Inspector of Schools vide Memo No. LC-270/2025 dated May 8, 2025

accompanied by a copy of the minutes of the hearing held on December 27, 2017 in the office of the District Inspector of Schools and submitted that the District Inspector of Schools was unable to decide the matter owing to the failure of the school authority to supply the requisite documents. The said Memo is taken on record.

11. The said Memo dated May 8, 2025 mentions inter alia that despite the District Inspector of Schools having indicated to the school authority the requirement of submission of certain documents, the same have not yet been submitted by the school authorities to the District Inspector of Schools. The minutes of the hearing meeting held on December 27, 2017 however reveals that the school authority was directed to submit inter alia “the sanctioning memos from 2010 to 2015”. It has been submitted by Mr. Dey, learned advocate that in view of the non-submission of the documents sought for by the District Inspector of Schools being the “sanctioning memos from

2010 to 2015” as would appear from the minutes of the hearing held on December 27, 2017, the said authority has not been able to take any decision on the matter.

12. Mr. Jana, learned advocate appearing for the writ petitioner submits that in view of the recent decision of the Hon'ble Full Bench of this Court in the case of **Utpal Kanti Karan Vs. State of West Bengal reported at 2024 SCC Online 1274** the requirement of the sanctioning Memos no longer remains. Mr. Jana draws the attention of this court to paragraph 200 of the said judgement and specifically refers to the following portion thereof:

- xvii) “In **Akhtar Hossain Chowdhury v. State of West Bengal & Ors.**, reported in **2013 (@) CHN (Cal) 632** the argument of Mr. Moitra that paragraph 3 of the circular dated 27th November, 2007 cannot override the provisions of the West Bengal Schools (Control of Expenditure Act, 2005) was accepted as would be evident from paragraphs 15 to 18 of the said decision. The said paragraphs read:
“15. Mr. Moitra also submits that that Para 3 of the aforesaid circular dated 27th November, 2007 cannot override the provisions of the West Bengal Schools (Control of Expenditure) Act, 2005.
 16. Mr. Moitra invites our attention to Section 14(3) of the aforesaid Act, 2005 and submits that the

appellant/petitioner is entitled to draw pay of post graduate upon acquiring post graduate degree. The said section 14(3) is set out hereunder:

“(3) Every teacher of a school shall, if appointed in the Honours Graduate or Postgraduate teacher category, be entitled to draw pay of Post-graduate teacher category, upon acquitting Post-graduate degree, in the manner as may be specified by order.”

17. It is true that a circular cannot override the specific provisions of the Act. In the present case, the appellant/petitioner was admittedly appointed in the school as Honours Graduates with B.Ed degree. As a matter of fact, at the time of joining the school qualification of the appellant was Honours Graduate in Mathematics and B.Ed. Subsequently the said appellant acquired post-graduate degree. Therefore, in terms of Section 14(3) of The West Bengal Act, XIV of 2005 appellant herein is entitled to draw pay of postgraduate teacher. Furthermore, Para 3 of the Office order dated 27th November, 2007 has not been specifically violated in the present case since the appellant also sought for prior permission from the concerned District Inspector of Schools for undergoing post graduate studies through the managing committee of the school and such permission was never denied by the said District Inspector of Schools.

18. Considering the aforesaid facts, we are of the opinion that the District Inspector of Schools should not have rejected the claim of the appellant/petitioner for higher scale of pay even after acquiring higher qualification i.e. M.Sc in Mathematics”. (emphasis supplied)
We are in agreement with the said decision.”

13. Having heard the learned advocates appearing for the respective parties and having considered the material on record it appears that since the District Inspector of Schools has not yet decided the fate of the petitioner's application claiming Post graduate scale of pay, it would not be proper for this Court to decide the matter at the first instance. Justice would be subserved if the District Inspector of Schools, (S.E.), South 24 Parganas is directed to take a decision on the petitioner's claim in the light of the aforesaid judgement of the Hon'ble Full Bench of this Court which has noticed and approved the pronouncement of a Division Bench of this court in the case of **Akhtar Hossain Chowdhury Vs. State of West Bengal & Ors. reported in 2013 (2) CHN (Cal) 632.**

14. It is therefore directed that the District Inspector of Schools, (S. E.), South 24 Parganas shall decide the matter regarding the petitioner's claim for post graduate scale of pay strictly in accordance with law and especially in the light of the aforesaid Full Bench judgement of this court in

the case of Utpal Kumar Karan (*supra*), within a period of three weeks from the date of communication of this order.

15. It is needless to mention that the said District Inspector of Schools shall pass a reasoned order upon hearing the writ petitioner and the school authority and upon considering all the relevant documents and materials, within the aforesaid time frame and shall communicate such order to the petitioner and the school authority within a period of one week from the date of passing of such order.

16. In case the District Inspector of Schools comes to the conclusion that the petitioner is entitled to Post graduate scale of pay, appropriate steps shall be taken for the purpose of making all payments to the petitioner in terms of such entitlement of Post graduate scale of pay, in accordance with law.

17. With the aforesaid observation WPA 6758 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Om Narayan Rai, J.)