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(DL)

21.04.2025
Ct. No. 18
(ARPAN)

W.P.A. 7098 OF 2025

**Golam Md. Sadique
Vs.
The State of West Bengal & Others**

Sk. Sahjahan Ali, Adv.

...for the Petitioner

Mr. Supriyo Chattopadhyay, AGP
Mr. Manoj Kumar Mondal, Adv.

...for the State

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

In the writ petition order dated 28th January,
2025 issued by the District Inspector of Schools (S.E.),
Purba Bardhaman has been assailed whereby prayer
of the petitioner to sanction post graduate scale of pay
for acquiring M.Sc. in Mathematics has been spurned.

This Court has heard learned advocate
representing the petitioner and Mr. Chattopadhyay,
learned Additional Government Pleader at length
whiling examining the validity of the impugned order
dated 28th January, 2025 passed by respondent no.3.

Respondent no.3 has relied upon three
Government orders, one dated 24th June, 1997,
another dated 26th December, 2005 and the last one
dated 27th November, 2007 to deny sanction of post
graduate scale of pay in favour of the petitioner.
However, based on those three Government orders
respondent no.3 has come to a conclusion that
petitioner did not obtain prior permission from

respondent no.3 through the school authority which made the petitioner disentitled from enjoying post graduate scale of pay after acquiring M.Sc. in Mathematics.

Petitioner joined the post of Assistant Teacher in the first school on 14th February, 2008 but prior to joining the post, he took admission in M.Sc. in Mathematics course under Netaji Subhash Open University on 29th July, 2007 and completed the course in 2009.

It has been rightly pointed out on behalf of the petitioner that since petitioner joined the post of Assistant Teacher in the first school on 14th February, 2008 and prior to that took admission in higher course of study in 29th July, 2007; he did not get opportunity to approach the respondent no.3 through school authority to obtain prior permission.

In addition thereto under pre-amended provisions of West Bengal Schools (Control of Expenditure) Act, 2005 (hereinafter referred to as '*said Act of 2005*') it has been specifically provided under Section 14 Sub-section 3 that a teacher if appointed in honours graduate or post graduate teacher category, is entitled to draw pay of post graduate teacher category, upon acquiring post graduate degree, in the manner as may be specified by order.

In the present case, per-amended provisions of Section 14(3) of the said Act of 2005 is applicable since petitioner joined the post in the first school on 14th February, 2008. Therefore, it is not the circular dated 24th June, 1997 is applicable in deciding the issue whether petitioner is entitled to get post graduate scale of pay or not rather circular dated 27th November, 2007 being G.O. No.593-SE(B) applies in case of petitioner's claim to sanction post graduate scale of pay read with Section 14(3) of the said Act of 2005.

Said circular dated 27th November, 2007 was considered by the Hon'ble Division Bench in an *intra-court* appeal being **MAT 825 of 2020 (Md. Adeel Uz Zaman v. The State of West Bengal & Ors.)** and it was succinctly decided therein that in the event teacher joins the post after commencement of higher course of study, requirement as contemplated under circular dated 27th November, 2007 to obtain prior permission from the concerned District Inspector of Schools (S.E.) in order to complete the higher course of study is not applicable since said teacher did not have the opportunity to approach the concerned District Inspector of Schools (S.E.) seeking prior permission.

Such view of the Hon'ble Division Bench in **Adeel Uz Zaman** (*supra*) was affirmed by the Hon'ble Special Bench in the judgment dated 7th February,

2024 delivered on a batch of matters, first one being **WPA 9921 of 2007 (Utpal Kanti Karan vs. State of West Bengal & Ors)**. Based on the judgment in **Utpal Kanti Karan** (*supra*), Assistant Secretary, School Education Department *vide* memo dated 18th December, 2024 requested all the District Inspectors of Schools (S.E.) to decide the claim of teachers claiming higher scale of pay in terms of the judgment delivered in *Utpal Kanti Karan* (*supra*).

It is unfortunate that in spite of the order passed by this Court in the first round of litigation while deciding the writ petition being WPA 23688 of 2024 (*Golam Md. Sadique vs. State of West Bengal & Ors.*) directing respondent no.3 to decide the claim of the petitioner for sanction of post graduate scale of pay in terms of ratio of **Adeel Uz Zaman** (*supra*), which was affirmed by the Hon'ble Special Bench in **Utpal Kanti Karan** (*supra*), those decisions of this Court have not been followed by respondent no.3. Such stand as reflected from the impugned order dated 28th January, 2025 is deprecated and respondent no.3 is cautioned if in future same stand is taken while deciding identical issue, said respondent no.3 shall be appropriately dealt with.

In view of aforesaid discussions, impugned order dated 28th January, 2025 is set aside.

State respondents are directed to sanction post graduate scale of pay in favour of the petitioner from the date of publication of the result of M.Sc. Part II examination within a period of four (4) weeks from the date of communication of this order.

Accordingly, writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)