

10.12.2025
Sl. No.11
Ct. No.14
ss

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

W.P.A. No. 7910 of 2024

**Md. Manirul Islam
Versus
The State of West Bengal & Ors.**

Mr. Md. Manuwar Ali

...for the Petitioner.

Mr. Supriya Chattopadhyay, Ld. AGP
Mr. Suman De

...for the State.

1. By the present writ petition, the petitioner seeks for withdrawal/cancellation and/or setting aside of order dated 5th August, 2022 passed by the District Inspector of Schools (S.E.), Birbhum rejecting the prayer of the petitioner for grant of postgraduate scale of pay.
2. The petitioner contends that he is an Assistant Teacher of a Government Aided Senior Madrasah and joined his service on 29th December, 2009. On the prayer of the petitioner to appear for M.A. Part-II (English) Examination, Madrasah authority accorded permission to complete the M.A. Part-II (English) examination through Distant Education Course. The M.A. Part-II (English) examination was completed on 7th August, 2010. The petitioner passed M.A. Part-II (English) examination in the year 2010. The petitioner made an application to the District Inspector of Schools (S.E.), Murshidabad on 25th February, 2011 for grant of higher

scale of pay on the basis of M.A. degree in English. Since the same was not granted the petitioner filed a writ petition being WP No.32296(W) of 2014. The said writ petition was disposed of on 28th April, 2022 with the following directions :

*“ In view of the above discussion and placing reliance on the judgment of the Hon’ble Division Bench in **Adeel Uz Zaman** (supra) this Court directs the District Inspector of Schools (S.E.), Birbhum to consider the prayer for higher scale of pay of the petitioner but it has been clarified that since the ratio of **Adeel Uz Zaman** (Supra) applies in the case of the petitioner it would not be open to the concerned District Inspector of Schools to reject the prayer for higher scale of pay on the ground of lack of prior permission.*

The entire exercise shall be completed within a period of six weeks from the date of communication of this order after giving reasonable opportunity of hearing to the petitioner and the Madrasah authority where he is serving at present. A reasoned order shall be passed within the aforesaid period and should be communicated to the petitioner within two weeks thereafter.”

3. Pursuant to such order the District Inspector of Schools (S.E.), Murshidabad, respondent no.3 passed an order on 5th August, 2022 rejecting the prayer of the petitioner for grant of higher scale of pay on the ground that the petitioner has not taken prior permission in clear violation of the Government Order. The petitioner challenges such order in the present writ petition.
4. Mr. Md. Manuwar Ali, learned Advocate appearing on behalf of the petitioner referring to the supplementary affidavit submits that the petitioner prior to joining the post as an Assistant Teacher on 29th December, 2009 has completed M.A. Part-I examination in English under Distant Education mode on 4th July, 2009. Relying on the decision of Hon’ble Larger Bench in **Utpal Kanti Karan -versus- State of West Bengal** and other writ

petitions, reported in **2024 SCC OnLine CAL 1274** he submits that 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 26th December, 2005 and the question of taking permission from District Inspector of Schools (S.E.) concerned would not arise. He also indicates that in the earlier round of litigation the Court has directed the District Inspector of Schools (S.E.), Birbhum to consider the prayer for higher scale of pay of the petitioner clarifying that it would not be open to the District Inspector of Schools to reject the prayer for higher scale of pay on the ground of lack of prior permission. However, by the impugned order, the prayer of the petitioner for higher scale of pay has been rejected on the solitary ground of lack of prior permission from the authority concerned. He seeks for appropriate direction upon the respondent authorities for grant of higher scale of pay in favour of the petitioner.

5. Mr. Supriya Chattopadhyay, learned Additional Government Pleader appearing for the State submits that since the petitioner partially completed his M.A. (English) prior to joining service, the question of taking prior permission from the authority concerned would not arise, which is settled by the Hon'ble Larger Bench in *Utpal Kanti Karan (supra)*.
6. Having heard learned Advocate for the respective parties, the issues, which fall for consideration, are

firstly, whether the impugned order dated 5th August, 2022 passed by respondent No.3 is sustainable and *secondly*, whether the petitioner is entitled to get the higher scale of pay.

7. Both the issues being inter-related are taken up together.
8. In the earlier round of litigation in W.P.A No.32296 of 2014, this Court directed the District Inspector of Schools (S.E.), Birbhum to consider the prayer for higher scale of pay of the petitioner and clarified that it would not be open to the concerned District Inspector of Schools to reject the prayer for higher scale of pay on the ground of lack of prior permission. The Annexure P-13 of the supplementary affidavit shows that the petitioner completed M.A. Part-I examination in English on 4th July, 2009. The petitioner joined his service on 29th December, 2009. Therefore, it goes without saying that the petitioner has partially completed the M.A. examination in English by completing M.A. Part-I Examination prior to joining his service.
9. The Hon'ble Larger Bench in *Utpal Kanti Karan (supra)* has held as follows:-

"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 26th December, 2005 and the question of taking permission from District Inspector of Schools (S.E.) concerned would not arise."

10. In view of the above, the order under Memo No.99/L-S dated 5th August, 2022 passed by respondent no.3,

District Inspector of Schools (S.E.), Birbhum, is hereby set aside.

11. The District Inspector of Schools (S.E.), Birbhum is directed to grant higher scale of pay to the petitioner with effect from the last date of his postgraduate examination, i.e., 7th August, 2010. The arrear salary, if any, be paid to the petitioner accordingly.
12. The payment shall be made within eight weeks from the date of communication of this order.
13. Petitioner is directed to communicate this order to the respondent no.3, the District Inspector of Schools (SE), Birbhum, for necessary compliance.
14. With the above direction, the writ petition being **WPA 7910 of 2024** stands disposed of.
15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
16. Interim order, if any, stands vacated.
17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)