

22.05.2025
Court No. 18
Item No. 263
(Suvendu)

WPA 9792 of 2025

Asim Jana
-Versus-

The State of West Bengal & Ors.

Mr. Ratul Biswas
Mr. Kamal Mishra
Mr. Pratap Sanfui
Mr. Sourojit Mukherjee
.....for the petitioner

Mr. Bhaskar Prasad Vaisya
Mr. Nilay Baran Mandal
....for the State

Mr. Samiran Giri
...for the DPSE, Purba Medinipur

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

Petitioner participated in the recruitment
process of 2006 which concluded in 2010.
Petitioner was not given weightage of marks for
having teacher training qualification from an
institute recognized by State Government not by
the National Council for Teacher Education (for
short, "NCTE"). In terms of the relevant
recruitment rules marks were allotted against
teacher training qualification and petitioner was
deprived of getting weightage of marks for
teacher training qualification since petitioner

was not having training qualification from an institute recognized by NCTE. Issue ultimately travelled before the Hon'ble Supreme Court and an order was passed on 24th January, 2019 in **Civil Appeal No. 1071 of 2019 (Amina Khatun & Ors Vs. Birbhum District Primary School Council & Ors.)**. In the order dated 24th January, 2019 Hon'ble Supreme Court made several observations and relevant part is quoted hereinbelow:-

“The primary teachers who obtained their certificates from the institutes recognized by the State Government, will also be entitled to the weightage under Rule 9(2)(d) of the Recruitment Rules, 2001 so long as they have filed the legal proceedings in the High Court on or before 31st December, 2010. This would include such of the parties who are the original petitioners or interventionists in their individual names so long as the petitions or the applications for intervention have been filed on or before 31st December, 2010. We make it clear that this relief will be available to only such persons and no others.”

Based on such observation made by the Honble Supreme Court in the order dated 24th January, 2019 petitioner was benefited from awarding marks for having training qualification and an appointment letter was issued on 25th August, 2021. Based on such appointment letter petitioner is functioning as a primary teacher in Purba Medinipur. Petitioner prays for notional benefit from the date of passing order by the Hon'ble Supreme Court on 24th January, 2019. On behalf of the petitioner reliance is placed on the order of a Coordinate Bench passed on 21st May, 2024 on a batch of writ petitions first one being **WPA 21274 of 2021 [Malina Mahanty (Nayek) Vs. The State of West Bengal & Ors.]**. In paragraph 6 of **Malina Mahanty (Nayek)** (supra) Coordinate Bench made following directions:-

“In that view of the matter, this Court directs that letters of appointment may be issued to the 45 candidates indicating that the effective date of appointment is from 24th January, 2019. They shall be entitled to their service being counted notionally from 24th January, 2019. The actual financial benefits shall be payable to them with effect from the date of their actual joining.”

It is contended on behalf of the petitioner that petitioner is similarly circumstanced candidate who was appointed prior to 3rd June, 2024 when other forty-five candidates were appointed in terms of the order of **Malina Mahanty (Nayek)** (supra). Therefore, petitioner is entitled to receive notional benefits with effect from 24th January, 2019 when order was passed by the Hon'ble Supreme Court since identical benefit was granted to other forty-five candidates who were appointed in terms of the order dated 21st May, 2024 passed in **Malina Mahanty (Nayek)** (supra).

State respondents and District Primary School Council, Purba Medinipur are represented by learned advocates who have opposed the prayer of the petitioner seeking sanction of notional benefits from 24th January, 2019. It is submitted on behalf of the respondents that petitioner is not similarly circumstanced like other forty-five candidates who were appointed in terms of order passed in **Malina Mahanty (Nayek)** (supra). It is contended that case of the petitioner should be considered separately and petitioner is not

entitled to receive identical benefit as was granted to other forty-five candidates.

Having considered the submissions made on behalf of the parties and taking note of the observations of the Hon'ble Supreme Court in the order dated 24th January, 2019 and subsequent order passed by the Coordinate Bench in **Malina Mahanty (Nayek)** (supra), this Court finds that petitioner is similarly circumstanced candidate like forty-five candidates who were appointed in terms of order dated 21st May, 2024 passed in **Malina Mahanty (Nayek)** (supra). Only difference is date of appointment, petitioner was appointed vide appointment letter dated 25th August, 2021 whereas those forty-five candidates were appointed on 3rd June, 2024; but that does not obliterate right of the petitioner to get the benefit of the observations made by the Hon'ble Supreme Court in the order dated 24th January, 2019.

In consideration of the facts it further appears that since petitioner came within the zone of consideration on applying the methodology as delineated in the order dated 24th January, 2019 passed by the Hon'ble

Supreme Court, appointment was made in favour of the petitioner.

In view of aforesaid discussion, concerned State respondents including concerned District Primary School Council are directed to grant notional benefits to the petitioner with effect from 24th January, 2019. However, actual financial benefits shall be awarded on re-fixation of pay of the petitioner from date of appointment. In this regard, Commissioner of School Education, Government of West Bengal being respondent no. 2 shall pass a formal order granting notional benefits in favour of the petitioner with effect from 24th January, 2019 within a period of twelve weeks from the date of communication of this order.

Writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)