

23.5.2025

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WPA 9378 of 2022
Faruque Gazi-vs-State of West Bengal & Ors.

Mr. Rezaul Hossain
Mr. Parvez Hossain
...for the petitioner

Mr. Bhaskar Prasad Vaisya,Ld. AGP
Mr, Sagnik Chatterjee
...for the State

1. The petitioner is an Assistant Teacher in honours/post graduate category in the Madrash on and from October 5, 2009. Before entering into service, he has completed Part-I examination of M.Sc. in the relevant subject of Mathematics. After entering into service and with due permission of the respondent/school authority, he has pursued the course further, to obtain a degree in M.Sc. His last date of examination in Part-II was 25th October, 2011.
2. Hence, the petitioner has sought for grant of higher pay scale to him pursuant to his higher qualification, which has been declined by the respondent/District Inspector of Schools (S.E.), Nadia vide its order dated 2nd February, 2022.
3. The said order of the D.I. is under challenge in the instant writ petition.

4. Mr. Hossain, learned advocate appearing for the petitioner has relied on the decision of the Larger Bench of this Court in the case of Utpal Kanti Karan-vs-State of West Bengal & Ors. (2024 SCC Online Cal 1274) as well as an order of this Court dated 7th April, 2005 in WPA 12683 of 2017, to submit that similar issues have been dealt with by this Court earlier and relief has been granted to the petitioner on the ground that the petitioner having discharged his part of responsibility as per provision under G.O.No. 593 SE(D) dated 27th November 27, 2007 and in terms of provisions under ROPA 1998 and G.O.No. 1595-SE(S) dated December 26, 2005, could not have been declined to be granted with the higher pay scale, for the reason that the school authority or the D.I. himself has been inactive in complying with their respective parts, in the whole process of obtaining prior permission for the petitioner in terms of G.O.No. 593 SE(D) dated 27th November 27, 2007.
5. As a matter of fact, in the impugned order dated 2nd February, 2022, the D.I. has cited the reason that since the petitioner has not obtained prior permission in terms of G.O.No. 593 SE(D) dated 27th November, 2007 no higher pay scale can be

granted to him pursuant, to the said Government Order.

6. Learned advocate appearing for the State has emphasized this aspect that the school authority has never sent any recommendation or its permission allowing the petitioner to pursue with his M.Sc. course, to the District Inspector of Schools.
7. These aspects have already been taken into consideration previously by this Court in various other matters.
8. It has been found that in view of the substantive provision of law as enumerated under Section 14 of the West Bengal School (Control of Expenditure) Act, 2005 and also in view of the relevant provisions of applicable ROPA Rules in case of the petitioner, the petitioner cannot be denied the benefit which he is otherwise eligible under the statutes and also having applied for prior permission before the competent school authority, in terms of G.O.No. 593 SE (D) dated 27th November, 2007, which is evident on record.
9. Whether his application has been duly forwarded or not and whether the recipient has responded to the same in terms of Rules are not matters for which the petitioner can be held responsible.

10. Previously in other matters for the reason as above, the Court has granted relief to the petitioner. The Court does not find any justifiable reason to deviate from that in case of the present petitioner too. Hence for the reason as above, this writ petition is allowed with the following directions:-

- i) The impugned order of the District Inspector of Schools (SE), Nadia dated 2nd February, 2022 is set aside.
- ii) The petitioner shall be eligible for grant of higher pay scale in terms of his higher qualification with effect from the following date of last date of his part-II examination.
- iii) Let a re-fixation as his pay scale be done immediately by the respondent/District Inspector Schools(SE), Nadia, positively within a period of three weeks from the date of communication of copy of this order.
- iv) The arrear salary, if any, shall be paid to the writ petitioner within a period of two months

from the date of communication
of copy of this order.

12. The writ petition as above, is disposed of.

13. Since no affidavit is called for in this case, the allegations made in the writ petition, are deemed to have been denied by the respondents.

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

(Rai Chattopadhyay, J.)