

06.02.2025.
PB
Sl. No.6.
Ct. No.25.

WPA 10262 of 2022

Kalipada Mandal
Vs.
The State of West Bengal & Ors.

Ms. Pritikana Gantait.
... For the petitioner.

Mr. Mrinal Kanti Ghosh.
....for the State.

The affidavit of service filed in Court today is taken on record.

The present writ petition is by a retired school teacher, who claims his arrear salary as per the pay scale meant for post-graduate teachers, on the ground that he has been granted post-graduate pay scale during his service period, pursuant to the order of the Court dated July 14, 2003, in WPCR 13344 (W) of 2002.

The petitioner has been an approved teacher in Work Education Group, who joined in the school on July 24, 1978. Later on, the petitioner enhanced his qualification by obtaining a Master's Degree in Philosophy from Rabindra Bharati University, with the prior permission of the school authority as well as the District Inspector of Schools (SE), Tamruk, Purba Medinipur.

By dint of the order of the Court dated July 14, 2003, as mentioned above, the petitioner was granted

enhanced scale of pay on the basis of his M.A. degree, with effect from March 15, 1985.

In the present case, the writ petitioner has prayed for his arrear salary from the period from March 15, 1985 to February 29, 2004, amounting to Rs.1,47,586.45/-.

Ms. Pritikana Gantait, learned advocate for the petitioner has submitted that the petitioner having been granted with the higher pay scale during his service period and having been granted the pension as per the last drawn salary of him paid at the higher scale of pay, would be entitled for grant of arrear pay for the period as above, at the rate of the pay scale meant for the post-graduate teachers.

Mr. Ghosh, is representing the State. However, he has raised objection as to the claim of the writ petitioner. Firstly, he would say that the petitioner has been granted higher pay scale meant for a post-graduate teacher without complying with the existing rules, insofar as the petitioner has not enhanced his qualification in the subject relevant to his teaching. Thereafter, Mr. Ghosh would refer to the Hon'ble Larger Bench's decision of this Court in **Utpal Kanti Karan Vs. State of West Bengal & Ors.** reported in **2024 SCC Online Cal 1274** to submit that the law has been settled by the Hon'ble Larger Bench to the effect that in case of a teacher having enhanced his qualification, post induction of service, should be

governed under the relevant rules prevalent at the relevant point of time. He has not failed to indicate that unless there is a specific rule to cover the petitioner's rights for higher pay scale during the period, in terms of the law settled by the Hon'ble Larger Bench in the decision as mentioned above, there would not be any scope for the writ petitioner to pray for the benefit of higher pay scale, bereft of the same.

Heard submissions. Perused the records.

It appears that the arrear pay of the petitioner is a long standing pending issue before the authorities, which is yet to be solved. Letter dated August 3, 2011, written by the then Director of School Education (now Commissioner of School Education, West Bengal), which is addressed to the District Inspector of Schools (SE), Tamluk, Purba Medinipur, relates to the said issue, concerning the writ petitioner, by dint of which the said authority has sought for answers of several queries.

There is no material to show if any further process as to the same has been done by the concerned authorities and if the same has yet been answered.

In such circumstances, the Court is of the considered opinion that this case should be disposed of by directing the District Inspector of Schools (SE), Tamluk, Purba Medinipur, to immediately answer to

the letter dated August 3, 2011, to the Commissioner of School Education, West Bengal, if not done already.

On receipt of the clarification from the District Inspector of Schools (SE), Tamluk, Purba Medinipur, in a reply to the letter dated August 03, 2011, the Commissioner of School Education shall immediately proceed to consider the claim of the petitioner for grant of arrear pay, for the period of March 15, 1985 to February 29, 2004, and decide thereupon, by dint of a reasoned order.

In doing so, the Commissioner of School Education shall afford opportunity of hearing to the petitioner and dispose of the prayer of the petitioner as above, within a period of three weeks from the date of receipt of copy of this order or the reply by the respondent District Inspector of Schools (SE), Tamluk, Purba Medinipur, to the letter dated August 03, 2011, whichever is applicable.

Needless is to mention that the respondent District Inspector of Schools (SE), Tamluk, Purba Medinipur shall expeditiously take steps to send the reply of the letter of the Director of School Education (now Commissioner of School Education, West Bengal) dated August 3, 2011, positively within ten days from the date of receipt of copy of this order.

The writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, shall be supplied to the parties, on compliance of all necessary formalities.

(Rai Chattopadhyay, J.)