

09.01.2025.

PB

Sl. No.29.

Ct. No.25.

WPA 14773 of 2021

Sharba Mukherjee

Vs.

The State of West Bengal & Ors.

Mr. Ekramul Bari,

Mr. Sk. Imtiaz Uddin.

.....for the petitioner.

Mr. Pinaki Dhole,

Mr. Avishek Prasad.

.....for the State.

The issues, involved in this case, is now finally settled by the judgment of the Hon'ble Larger Bench in the case of (Utpal Kanti Karan Vs. The State of West Bengal & Ors.) reported in 2024 SCC OnLine Cal 1274. Let the relevant portion thereof be quoted, as here in below:

“272(g)- 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 DIS-SE concerned would not arise”.

The petitioner has challenged the order of the respondent District Inspector of Schools (S.E.), Purulia, dated August 17, 2021, by dint of, which the said authority has declined prayer of the petitioner for grant of higher scale of pay, pursuant to her higher

qualification of Master's Degree. The ground taken by the said respondent in the impugned order is non-compliance with the G.O. No.593-S.E, dated November 27, 2007, so far as the clauses contained in it obviating taking prior permission from the said authority by the aspirant, who would thereafter pursue the higher course.

Learned advocate appearing for the petitioner has pointed out to the fact that after being approved in service with effect from November 10, 2013, the petitioner has applied for permission before the school managing committee for pursuing higher degree course. The permission of the managing committee of the school and its recommendation was further forwarded to the office of the District Inspector of Schools (S.E.), Purulia, for grant of permission to the petitioner.

The Additional District Inspector of Schools (S.E.), Sadar, Purulia, has finally granted such permission on post-facto basis on May 19, 2016.

Be that as it may, in the meantime, the petitioner had enrolled himself for the Master's Degree course and completed the same, the last of examination being on September 26, 2016.

Thereafter, the petitioner has raised her claim for grant of higher scale of pay which has been dealt with by the District Inspector of Schools (S.E.),

Purulia, by dint of the impugned order as mentioned above and declined the same.

As stated earlier, the issue of applicability of G.O. No.593-SE dated November 27, 2007, has been dealt with elaborately in the judgment as above.

According to the law settled in this regard, the Court finds the impugned order not to be sustainable in the eye of law and thus, the same is set aside.

It is directed that the respondent District Inspector of Schools (S.E.), Purulia/respondent no.3, shall immediately allow higher scale of pay to the writ petitioner and the re-fixation of the pay scale shall be made effective. Arrear salary be also paid with immediate effect.

Let the entire exercise as above, be concluded by the said respondent no.3, within a period of four weeks from the date of communication of copy of this order.

The writ petition is disposed of.

Since no affidavit has been called for, allegations made in the writ petition, shall be deemed to have not admitted by the respondents.

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

(Rai Chattopadhyay, J.)