

Form No. J(2)

Item No. DL / 9

ARPAN – A.R.(CT)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

(Appellate Side)

W.P.A. NO 14070 OF 2025

DR. ARPITA SARDAR

VS.

THE STATE OF WEST BENGAL & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner : Mr. Duke Banerjee, Adv.
Mr. Ranjit Kumar Barman, Adv.

For the State : Mr. Pinaki Dhole, Adv.
Mr. Avishek Prasad, Adv.

Heard On : 07.08.2025

Judgment On : 07.08.2025

SAUGATA BHATTACHARYYA, J.:

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Petitioner was appointed as Assistant Teacher in English possessing honours degree on 20th July, 2011 on being recommended by the Chairman, West Bengal Regional School Service Commission, Southern

Region *vide* memo dated 10th June, 2011. Recommendation memo dated 10th June, 2011 discloses that petitioner was recommended under honours/ post graduate category.

3. Learned advocate representing the petitioner submits that petitioner was granted honours graduate scale of pay from the date of appointment with effect from 20th July, 2011. It is further submitted that before joining the post petitioner completed the course of Master degree in English from Calcutta University on 16th June, 2011 and result was published on 29th September, 2011.
4. It is contended on behalf of the petitioner since at the time of joining the post on 20th July, 2011 petitioner already completed the course but only result was due to be published, she had no occasion to pray for prior permission from the District Inspector of Schools (S.E.), Kolkata being respondent no.2 for enrolling herself with the concerned University for higher course of study.
5. In this regard reliance is placed on the judgment dated 11th February, 2021 of the Hon'ble Division Bench passed on an *intra-court* appeal being **MAT 825 of 2020 (Adeel Uz Zaman v. The State of West Bengal & Ors.)**. Reliance is also placed on the judgment dated 7th February, 2024 of the Hon'ble Special Bench passed on a batch of matters, first one being **WPA 9921 of 2007 (Utpal Kanti Karan v. State of West Bengal & Ors.)**.

6. State respondents are represented by learned advocate who submits that there was an amendment to the Control of Expenditure Act, 2005 with effect from 2016 which makes the petitioner not entitled to get the benefit of higher scale of pay.
7. Submission made on behalf of the State respondents ought not to be countenanced since petitioner completed Post Graduate course on 16th June, 2011 and result was published on 29th September, 2011 which was before aforesaid amendment relating to the Control of Expenditure Act, 2005 was promulgated. Said amendment not having retroactive operation does not empower State respondents to deny benefits of higher scale of pay to the petitioner, if she is found to be eligible otherwise.
8. A representation is made by the petitioner dated 20th March, 2025 addressed to the respondent no.2 seeking sanction of post graduate scale of pay.
9. Respondent no.2 is directed to take decision on such representation within a period of eight (8) weeks from the date of communication of this order after granting opportunity of hearing to the petitioner and the school authority or their representatives. Respondent no.2 shall pass a reasoned order on following the ratio of ***Adeel Uz Zaman (supra)*** and ***Utpal Kanti Karan (supra)***. The decision to be taken by the respondent no.2 shall be communicated to the petitioner by ten (10) days thereafter.

10. With the above directions writ petition stands disposed of.
11. However, there shall be no order as to costs.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)