

W.P.A. 14976 of 2022

Sabyasachi Mondal
Vs.
The State of West Bengal & Ors.

Md. Manuwar Ali ... for the petitioner

Affidavit of service is taken on record.

Mr. Ali, learned advocate is appearing for the petitioner whereas no one is appearing for the respondent in spite of service of notice. Hence, the matter is taken up in absence of the State respondent.

The issues involved in the present case have already been settled by the Hon'ble larger Bench of this Court in the judgment of Utpal Kanti Karan vs. State of West Bengal & Ors. reported in 2024 SCC Online Cal 1274.

The factual background necessary to be mentioned in this case is that the petitioner being an honours graduate candidate was inducted in service in the respondent school as an Assistant Teacher on December 8, 2012. His appointment was approved subsequently. Now, he would seek permission from the School Managing Committee in terms of the existing rules for being enrolled for higher qualification with the recognized institution. His such prayer has been granted by the School Managing Committee and recommendation thereof has been duly sent before the District Inspector of Schools, Secondary Education, Birbhum/ respondent no. 3 for permission. However, no formal

permission has ever been received from the said authority whereas the writ petitioner in the meantime has entered into the M.Sc. course as well as completed the same. His further prayer before the School Managing Committee in terms of the existing rule has been for grant of higher pay-scale to him as meant for Post-Graduate teachers. The same has also been approved by the Managing Committee of this school and recommendation to that effect has also been sent before the respondent 3 for its approval, but to no avail as yet.

Hence the petitioner writes to the District Inspector of Schools, Secondary Education, Birbhum on May 24, 2022 seeking grant of higher pay-scale to him pursuant to his Masters degree qualification.

The substantive right of the petitioner emanates from the statutory provision of Section 14 of the West Bengal Schools (Control and Expenditure) Act, 2005 which may be quoted as hereunder :-

“14. [Pay of teacher] [Substituted ‘Scale of pay etc of teacher’ by West Bengal Act No. 20 of 2016, dated 2.2.2016.].

(1) Every teacher of a school [shall be entitled to draw pay] [Substituted ‘shall, if appointed in the post of Undergraduate teacher category, be entitled to draw pay in the scale of pay’ by West Bengal Act No. 20 of 2016, dated 2.2.2016.] in which he is appointed and shall not be entitled to claim any additional increment or higher scale of pay for acquiring

any qualification other than the qualifications specified for such post.

(2) [Every teacher appointed for classes VI to VIII and classes IX and X, shall be entitled to draw pay meant for Graduate teacher][Substituted 'Every teacher of a school shall, if appointed in the post of Graduate teacher category, be entitled to draw pay in the scale of pay in which he is appointed' by West Bengal Act No. 20 of 2016, dated 2.2.2016] and shall not be entitled to claim any additional increment or higher scale of pay for acquiring any qualification other than the qualification specified for such post.

(3) [Every teacher appointed for classes XI and XII, shall be entitled to draw pay meant for Post-graduate qualification and shall not be entitled to claim any additional increment or higher scale of pay for any qualification other than the minimum qualification specified for such post.] [Substituted by West Bengal Act No. 20 of 2016, dated 2.2.2016]"

Furthermore, pursuant to the decision of the Hon'ble larger Bench as mentioned above where it has been held that in a similar kind of case, where the petitioner has taken admission in the Masters Degree Course with due permission from the School Managing Committee and pending such permission from the District Inspector of

Schools, Secondary Education, grant of the higher pay-scale to him pursuant to his higher qualification cannot be withheld particularly on the ground of his not obtaining the prior permission the Court finds it proper to dispose of the present writ petition, in the light of the said verdict of the Court.

Hence, let this writ petition be disposed of by directing the writ petitioner to submit a comprehensive representation before the respondent no. 3 as regards his contentions grievances and prayers.

Let the respondent no. 3 consider such application of the petitioner, if filed, after taking into consideration the observation of the Court as made in the case of Utpal Kanti Karan (supra) and the settled principles of law governing the issues.

Let the respondent no. 3, afford an opportunity of hearing to the writ petitioner and decide upon the prayer of the petitioner by dint of a reasoned order, within a period of four weeks from the date of receipt of the representation of the petitioner in its office.

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

(Rai Chattopadhyay, J.)