

Form No. J(2)
Item No. DL / 15
Suwendu – A.R.(CT)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(Appellate Side)

W.P.A. NO 15294 OF 2025

MITHU RANI MURMU

VS.

THE STATE OF WEST BENGAL & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner : Mr. Ujjal Ray
Mr. Atreya Chakraborty

For the State : Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Sangeeta Roy

Heard on : 14.08.2025

Judgment on : 14.08.2025

SAUGATA BHATTACHARYYA, J.:

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Petitioner having Honours graduate degree in Nutrition subject was recommended vide memo dated 16th June, 2011 for being appointed as Assistant Teacher in higher secondary

section in Midnapore Town School (HS), Paschim Medinipur (hereinafter referred to as “said school”). Pursuant to such recommendation dated 16th June, 2011 petitioner joined the post of Assistant Teacher on 25th July, 2011 and the District Inspector of Schools (SE), Paschim Medinipur being respondent no. 4 accorded approval of appointment vide memo dated 29th September, 2011. Initially petitioner was appointed for a period of two years and thereafter petitioner was retained substantively vide memo dated 22nd April, 2014 issued by respondent no.4 as an Assistant Teacher in said school. Petitioner at the time of appointment was possessing Honours graduate degree and was sanctioned Honours graduate scale of pay. Petitioner made prayer through said school authority for enrolling herself with Vidyasagar University for undergoing higher course of study in order to obtain post graduate qualification in Nutrition. On scrutiny respondent no. 4 granted prior permission permitting the petitioner to undergo higher course of study in terms of Government Order dated 27th November, 2007. Petitioner completed higher course of study and obtained post graduate degree in Nutrition and thereafter prayer was made before respondent no. 4 for sanction of post graduate scale of pay.

3. Respondent no. 4 by issuing memo dated 24th September, 2024 rejected the prayer of the petitioner seeking grant of post

graduate scale of pay and said memo dated 24th September, 2024 is questioned by presenting this writ petition.

4. Learned advocate representing the petitioner submits in terms of Section 3(4) of the West Bengal Schools (Control of Expenditure) (Amendment) Act, 2016 [for short, “said Act of 2016] she is entitled to enjoy post graduate scale of pay and respondent no. 4 misreading relevant provisions of said Act of 2016 denied right of the petitioner to receive post graduate scale of pay.

5. State respondents are represented by Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader, who has made submission to defend the decision of respondent no. 4 whereby petitioner was refused to get the benefit of post graduate scale of pay.

6. It is strenuously argued by Mr. Mukherjee that Section 3(4) of the said Act of 2016 stipulates that the concerned teacher is not entitled to claim any additional increment or higher scale of pay for any qualification other than the minimum qualification specified for such post and in the present case since at the time of appointment of the petitioner she was possessing Honours graduate qualification same needs to be treated as minimum qualification. As such, petitioner is

not entitled to receive post graduate scale of pay by enhancing her educational qualification subsequent to appointment.

7. For better understanding of the issue involved in this writ petition, Section 3(4) of the said Act of 2016 is quoted below:-

“(4) for sub-section (3), the following sub-section shall be substituted :-

“(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.”

8. In the present case, petitioner vide recommendation memo issued by the concerned authority of the West Bengal Regional School Service Commission, Western Region, Bankura dated 16th June, 2011 was appointed in higher secondary section of said school under Honours /PG category. Subsequently respondent no. 4 accorded approval of appointment of the petitioner in higher secondary section of said school. On making prayer by the petitioner seeking prior permission in terms of Government Order dated 27th November, 2007 respondent no. 4 accorded such prior permission to the

petitioner to enhance educational qualification by obtaining post graduate degree in the relevant subject of teaching.

9. Aforesaid facts have made the situation abundantly clear that the petitioner was appointed in higher secondary section of the said school albeit with the educational qualification of Honours degree but the post was meant for Honours/ PG candidate. At the same time, Section 3(4) of the said Act of 2016 provides when a teacher is appointed for Classes XI and XII he/she shall be entitled to draw pay meant for post graduate qualification with a rider that such teacher shall not be entitled to claim any additional increment or higher scale of pay for any qualification other than minimum qualification specified for such post. When petitioner was appointed in higher secondary section of said school in terms of Section 3(4) she is entitled to draw post graduate scale of pay on acquiring such qualification and in case of appointment of petitioner Honours/ PG ought to be treated as minimum qualification. If petitioner would have obtained Ph.D. or any qualification higher than post graduation in that event that would not enure to the benefit of the petitioner by sanctioning higher scale of pay but considering Honours/ PG being minimum qualification petitioner needs to be awarded post graduate scale of pay on acquiring such qualification when respondent no. 4 permitted the petitioner to

undergo higher course of study in terms of Government Order dated 27th November, 2007.

10. Impugned memo dated 24th September, 2024 of the respondent no. 4 depicts non-application of mind and without assigning cogent reasons prayer of the petitioner seeking post graduate scale of pay was turned down.

11. Hence, impugned memo dated 24th September, 2024 issued by respondent no. 4 is set aside.

12. Respondent no. 4 is directed to accord post graduate scale of pay to the petitioner from the date of publication of final result of Part II M.Sc. examination within four weeks from date of communication of this order.

13. Since no affidavit is called for, the allegations contained in the writ petition are deemed not to have been admitted.

14. Writ petition stands disposed of.

15. However, there shall be no order as to costs.

16. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)