

19.05.2025
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Ct. No.7
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WPA 17321 of 2021

Anupam Jana
Vs.
The State of West Bengal & Ors.

Mr. Chittapriya Ghosh,
Mr. Goutam Acharya,
Ms. Priyanka Saha,
Ms. Sayani Pan
.....for the petitioner

Mr. Swapan Kumar Dutta, Sr. Adv.,
Mr. Benazir Ahmed
..... for the State

Affidavits exchanged by the parties are taken on record.

Citing inaction on the part of the concerned respondent in granting a higher scale of pay in favour of the petitioner due to improvement of qualification on the subject relevant to his teaching, in compliance with the order dated 23rd September, 2016 passed by a Coordinate Bench of this Court in W.P. 20512 (W) of 2009, the present writ petition has been preferred.

Briefly stated, the key facts leading to the filing of the present writ petition are that the petitioner joined *Patna Baikuntha Siksha Sadan* (hereinafter referred to as "*the school*") as an Assistant Teacher in Geography (Pass Graduate scale) on 25th October, 1997. The petitioner's

appointment was subsequently approved by an order 11th August, 1998.

Subsequently, the petitioner appeared in the B.Sc. Honours Examination in Geography conducted by Netaji Subhas Open University in 2004 and successfully completed the course on 29th October, 2005. The petitioner's prayer for study leave was duly granted by the West Bengal Board of Secondary Education.

Having improved his qualification in a subject relevant to his teaching, the petitioner applied for the grant of a higher scale of pay before the District Inspector of Schools through the Managing Committee of the said school. However, despite receiving such representation from the petitioner, no action was taken. As a result, the petitioner was constrained to file a writ petition, being W.P. 2532 (W) of 2009, which was disposed of by an order dated 25th March, 2009, directing the District Inspector of Schools to consider the petitioner's prayer and pass a reasoned order.

Pursuant thereto, the Additional District Inspector of Schools, by an order dated 21st August, 2009, rejected the petitioner's prayer for grant of a higher scale of pay. The said order was challenged by the petitioner by filing a writ petition, being W.P. 20512 (W) of 2009, which was disposed of by a Coordinate Bench of this Court by an order dated 23rd September, 2016, directing the District Inspector of Schools to extend the benefit of the Honours

Graduate scale of pay in favour of the petitioner. The said order was duly communicated to respondent no. 2. However, despite being fully aware of the said order, no effective steps have been taken to implement it, thereby prompting the petitioner to file the present writ petition seeking enforcement of the order dated 23rd September, 2016.

Drawing attention to the order dated 21st August, 2009, Mr. Ghosh, learned Advocate appearing for the petitioner, submits that the petitioner's prayer for grant of the Honours Graduate scale of pay was rejected on two primary grounds: (i) the staff pattern of the school did not permit the grant of such benefit, and (ii) the petitioner was not entitled to the Post Graduate scale of pay in view of the provisions of the West Bengal Schools (Control of Expenditure) Act, 2005, as well as Government Order No. 593-SE(B) dated 27th November, 2007. He points out that a Coordinate Bench of this Court, by an order dated 23rd September, 2016, set aside the said order dated 21st August, 2009 and directed the concerned respondent to extend the benefit of the Honours Graduate scale of pay in favour of the petitioner. He further submits that the order dated 23rd September, 2016 has attained finality and, accordingly, prays for an appropriate direction upon the concerned respondent to grant the higher scale of pay to the petitioner in compliance with the said order passed in W.P. 20512 (W) of 2009.

Mr. Dutta, learned senior advocate appearing for the State, opposes the petitioner's contention. Referring to the provisions of Section 14 of the West Bengal Schools (Control of Expenditure) Act, 2005 (hereinafter referred to as the "2005 Act"), he submits that, in view of Section 4 of the 2005 Act, the petitioner, having joined in the Pass Graduate scale of pay, is not entitled to the Honours Graduate scale of pay.

Heard the learned advocates representing the respective parties.

Admittedly, the petitioner's prayer for grant of the Honours Graduate scale of pay was rejected on the ground that the staff pattern of the school did not permit the petitioner to avail of such benefit, and that his claim could not be entertained in view of the provisions of the 2005 Act. However, a Coordinate Bench of this Court, after considering the fact that the petitioner had been appointed in the Pass Graduate scale and upon examining the provisions of the 2005 Act along with all applicable circulars, concluded that the petitioner is entitled to the benefit of the Honours Graduate scale of pay and directed the concerned respondent to grant the benefits of Honours Scale of pay in favour of the petitioner. The said order dated 23rd September, 2016 was passed in the presence of the State's representative. The State, having chosen not to prefer any appeal against the said order, has effectively allowed it to attain finality.

Thus, the order dated 23rd September, 2016 is binding upon the State, and it cannot refuse to implement the same. Needless to mention, a writ petition seeking enforcement of an order passed by a Coordinate Bench in an earlier proceeding is maintainable in law.

Therefore, based on the discussion and the reasons set forth in the preceding paragraphs, the writ petition is disposed of with a direction to Respondent No. 3 to grant the Honours Graduate scale of pay in favour of the petitioner, in compliance with the order dated 23rd September, 2016, positively within a period of 8 weeks from the date of receipt of a copy of this order.

The respondent shall act on the basis of a server copy of this order, without insisting on the production of a certified copy by the petitioner.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)