

25.06.2025

14
Ct. No.7
sdas

WPA 17585 of 2024

Jimut Mandal
Vs.
The State of West Bengal & Ors.

Sk. Sahjahan Ali
.....for the petitioner

Despite service, State is unrepresented.

The present writ petition challenges the legality and validity of the order passed by the District Inspector of Schools (S.E.), Murshidabad, whereby the petitioner's prayer for a higher scale of pay was rejected. The petitioner further seeks a writ of mandamus directing the respondents to grant the higher scale of pay along with all consequential benefits thereto.

Before delving into the issues raised in the present writ petition, it would be appropriate to set out the essential facts that have led to its institution.

The petitioner joined Rukanpur High School (H.S.) (hereinafter referred to as "the said school") as an Assistant Teacher in Mathematics in the Honours and Postgraduate Scale on 18th March, 2006. Subsequently, the petitioner submitted a representation to the Secretary of the Managing Committee, through the Headmaster of the school, seeking permission to pursue an M.Sc. degree

in Mathematics through a correspondence course offered by Netaji Subhas Open University, without disrupting the regular functioning of the school.

Upon receipt of the petitioner's application, the Managing Committee adopted a resolution granting him permission to pursue the M.Sc. degree in Mathematics from Netaji Subhas Open University. In due course, the petitioner successfully completed the said course and obtained his Master's degree in Mathematics. Thereafter, he submitted an application for grant of higher scale of pay through the proper channel, which was duly forwarded to the District Inspector of Schools for necessary action.

However, despite receipt of the said application, no effective steps were taken by the concerned authority. Consequently, the petitioner was constrained to file a writ petition, being WPA 22406 of 2019, which was disposed of by a Co-ordinate Bench with a direction to the District Inspector of Schools to pass a reasoned and speaking order after affording the petitioner an opportunity of hearing. The Court further directed that the said order be communicated to the petitioner within the time frame specified therein.

Pursuant to the said direction, a hearing was conducted by the District Inspector of Schools on 9th March, 2021. However, by an order dated 9th August, 2021, the District Inspector of Schools rejected the petitioner's prayer for grant of higher scale of pay. The

present writ petition has, therefore, been filed to challenge and assail the said order dated 9th August, 2021.

Mr. Ali, learned advocate appearing on behalf of the petitioner, submits that the petitioner joined the said school in the year 2006, i.e., after the promulgation of the West Bengal Schools (Control of Expenditure) Act, 2005 (hereinafter referred to as "the Act of 2005"). He submits that Section 14(3) of the said Act provides that every teacher of a school, if appointed in the Honours Graduate or Postgraduate scale of pay, shall be entitled to claim additional increments and/or a higher scale of pay upon acquiring a Postgraduate degree or any higher diploma/degree, in the manner as may be specified by order.

Subsequently, an order bearing No. 1595/SE (S) dated 26th December, 2005 was issued by the competent authority. Clause (c) of the said order clarified that any teacher intending to claim the benefit of a higher scale of pay upon improvement of academic qualifications must obtain prior permission from the competent authority before pursuing such enhancement of qualification.

He further submits that another order, bearing No. 593-SE(B) dated 27th November, 2007, was issued by the School Education Department. The said order clarified that, in the case of a teacher appointed in the Honours category, the Managing Committee of the school shall be the competent authority to grant permission for

improvement of academic qualification. Mr. Ali further draws attention to another order dated 19th May, 2014, from which it is also evident that the Managing Committee is the competent authority to grant prior permission to a teacher seeking to improve his qualification.

He refers to a decision of the Hon'ble Special Bench of this Court reported in *2024 SCC OnLine Cal 1274 (Utpal Kanti Karan vs. State of West Bengal & Ors.)*, wherein it was held that the order dated 27th November, 2007 had not been published in the Official Gazette and, therefore, lacked statutory force. He contends that the present petitioner, having obtained permission from the Managing Committee, duly improved his academic qualification, and as such, is entitled to the benefit of a higher scale of pay. According to him, the District Inspector of Schools acted illegally in refusing to extend such benefit to the petitioner.

Heard the learned Advocate for the petitioner and perused all the materials placed before me.

As previously noted, Section 14(3) of the West Bengal Schools (Control of Expenditure) Act, 2005 provides that every teacher of a school, if appointed in the Honours Graduate or Postgraduate category, shall be entitled to draw pay in the Postgraduate teacher category upon acquiring a Postgraduate degree, in the manner as may be specified by order. Subsequently, the School Education Department, Government of West Bengal,

issued two orders dated 26th December, 2005 and 27th November, 2007, respectively, which specified the procedure to be followed by a teacher to claim the benefit of higher pay upon improvement of academic qualification.

The order dated 26th December, 2005 mandated that a teacher must obtain prior permission from the competent authority before improving his academic qualification. Subsequently, the order dated 27th November, 2007 specified that the Managing Committee, Adhoc Committee, or Administrator shall be the competent authority to grant such permission. The order dated 19th May, 2014, also indicates that the Managing Committee is the competent authority to grant prior permission to a teacher seeking to improve his qualification. Needless to state that the Hon'ble Special Bench of this Court set aside the order dated 27th November, 2007.

Therefore, it is evident that the petitioner obtained prior permission from the competent authority, namely the Managing Committee of the school, which accorded such permission by adopting a formal resolution. The petitioner subsequently improved his qualification in the subject relevant to his teaching. A conjoint reading of Section 14(3) of the West Bengal Schools (Control of Expenditure) Act, 2005, along with the order dated 26th December, 2005, indicates that there is no legal

impediment to granting the petitioner the benefit of a higher scale of pay. Moreover, no statutory order has been placed on record to demonstrate that a teacher must obtain prior permission from the District Inspector of Schools for such improvement, especially where permission has already been granted by the Managing Committee. Consequently, the petitioner is entitled to draw pay in the Postgraduate teacher category.

A co-ordinate Bench of this Court has had occasion to consider this issue in writ petitions WP No. 38095 of 2013 (*Ashoka Sadhukhan vs. State of West Bengal & Ors.*), WPA No. 3781 of 2021 (*Paramita Bhowmik vs. State of West Bengal & Ors.*), and WPA No. 3610 of 2015 (*Sri Balaram Malik vs. State of West Bengal & Ors.*). In all these cases, similarly situated candidates were held entitled to draw the higher scale of pay upon improvement of their qualifications in the subject relevant to their teaching posts, based on the permission granted by their respective Managing Committees.

Mr. Ali, learned Advocate, draws attention to an order passed by the District Inspector of Schools in compliance with the directive of a co-ordinate Bench of this Court in WPA No. 3610 of 2015 (*supra*). He submits that the said order has been duly implemented by the District Inspector of Schools. Such conduct on the part of the District Inspector of Schools indicates that the State has accepted the legal proposition laid down in WPA No.

3610 of 2015 (*Sri Balaram Malik vs. State of West Bengal & Ors.*). Accordingly, I find merit in the petitioner's contention.

Accordingly, the order dated 9th August, 2021 is hereby set aside. The District Inspector of Schools (S.E.), Murshidabad, is directed to grant the petitioner the higher scale of pay with effect from the day following the last date of the M.Sc. examination, along with all consequential benefits, including arrears. This shall be done within twelve weeks from the date of receipt of a certified copy of this order.

With these observations, the writ petition is allowed.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)