

January 8, 2025
Sl. No.A 225
Court No.18
s.biswas

WPA 17616 of 2023

Soumya Mallick

vs.

The State of West Bengal and others

Mr. Sandip Kumar Dey

Mr. Abhijit Sarkar

... for the petitioner

Mr. Avishek Prasad

... for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

In spite of service of notice, Lee Collins High School (HS), Kolkata being the respondent no.4 is not represented.

By presenting this writ petition, inter alia, the petitioner has questioned the validity of the order dated 26th August, 2022 passed by the District Inspector of Schools (S.E.), Kolkata being the respondent no.3, whereby the petitioner was not granted normal incremental benefits with effect from 2017 due to inability of the petitioner to acquire B.Ed. degree within 5 years which was counted by the respondent no.3 from 12th March, 2012. It has been submitted that the petitioner was accorded approval of appointment retrospectively with effect from 12th March, 2012 vide memo dated 21st February, 2019 in terms of the order of the Co-ordinate Bench dated 29th August, 2017 passed on a writ petition being WPA 24779 of 2015. According to the petitioner, in 2017 he was not an approved

teacher till approval memo was issued on 21st February, 2019 with effect from 12th March, 2012. Therefore the petitioner had no occasion to undergo B.Ed. course for acquiring B.Ed. qualification within 5 years if the same is counted from 12th March, 2012.

It is further submitted that after approval was granted vide memo dated 21st February, 2019, the petitioner completed B.Ed. course in 2021 and obtained B.Ed. degree. Therefore, according to the petitioner, it was not his fault to obtain B.Ed. qualification within 5 years if the same is counted from 12th March, 2012, since at the material point of time prior to issuance of approval memo dated 21st February, 2019 he was not approved teacher.

State respondents are represented by learned advocate who has made submission to defend the decision of the respondent no.3 as contained in the memo dated 26th August, 2022. It is submitted that since approval was granted with retrospective effect from 12th March, 2012, in terms of relevant ROPA Rules petitioner was required to obtain B.Ed. qualification within a period of 5 years to be counted from 12th March, 2012. Therefore, according to the learned advocate representing the State respondents, there is no ambiguity in the order dated 26th August, 2022 passed by the respondent no.3.

Having considered the submissions made on behalf of the parties and taking into consideration the approval memo dated 21st February, 2019, this court finds that while taking the decision with regard to eligibility of the petitioner to draw annual increments, the respondent no.3 has failed to apply his mind to the extent whether it was possible for the petitioner to obtain B.Ed. qualification within the period of 5 years to be counted from 12th March, 2012. During the period from 12th March, 2012 till 20th February, 2019 the petitioner was not an approved teacher due to failure on the part of the respondent no.3 to accord approval of appointment and ultimately such appointment was granted vide memo dated 21st February, 2019 in terms of the order of the Co-ordinate Bench dated 29th August, 2017. Finally, the respondent no.3 had to accord approval of appointment in favour of the petitioner by issuing memo dated 21st February, 2019 with effect from 12th March, 2012. By that time the petitioner lost the opportunity to acquire qualification within 5 years to be counted from 12th March, 2012. After issuance of approval memo dated 21st February, 2019, the petitioner obtained B.Ed. qualification in 2021. Therefore, such steps taken by the petitioner in acquiring B.Ed. qualification ought to have been considered by the

respondent no.3 in view of the special facts and circumstances prevailing till issuance of approval memo dated 21st February, 2019.

Hence, the impugned order of the respondent no.3 dated 26th August, 2022 stands set aside. The respondent no.3 is directed to grant incremental benefits to the petitioner reckoning approval of appointment of the petitioner with effect from 12th March, 2012 notwithstanding acquiring B.Ed. qualification in 2021, within a period of four weeks from the date of communication of this order.

The writ petition stands disposed of.

There shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)