

11.04.2025
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Ct.No.7
sdas

WPA 18662 of 2024

Arupratan Das
Vs.
The State of West Bengal & Ors.

Mr. Biswarup Biswas
...for the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
... for the State

The present writ petition has been filed seeking a directive to the concerned respondents to grant the petitioner a higher scale of pay on account of improvement in his academic qualifications in a subject relevant to his appointment.

Briefly stated, the facts leading to the filing of this writ petition are that the petitioner was appointed as a Librarian in Ichapur Bibhukinkar High School (H.S.) (hereinafter referred to as 'the school') by the Managing Committee in the year 2000. At the time of his appointment, the petitioner held a Master's degree in Economics and a Bachelor's degree in Library Science (B.Lib.). His appointment was subsequently approved by the District Inspector of Schools by a memorandum dated 5th May, 2000.

Thereafter, the petitioner improved his qualifications by obtaining a post-graduate degree in

Library and Information Science. Subsequently, he was awarded a Doctorate in Philosophy (Arts and Commerce) in Library and Information Science. In light of his enhanced academic qualifications, the petitioner submitted a representation through the Managing Committee of the school, requesting grant of higher pay scale.

However, despite receipt of the said representation, no effective steps have been taken by the concerned authorities to consider petitioner's prayer for grant of higher scale of pay, thereby compelling him to approach this Hon'ble Court with the present writ petition.

Mr. Biswas, the learned Advocate appearing for the petitioner, submits that the petitioner is entitled to a higher scale of pay under the provisions of the Revision of Pay and Allowances (ROPA) Rules, 1998. He further contends that the provisions of the West Bengal Schools (Control of Expenditure) Act, 2005, cannot operate as a bar to such entitlement.

Mr. Biswas further submits that the said Act is applicable to teachers and non-teaching staff of schools, and a Librarian cannot be classified as non-teaching staff within the meaning of the Act. He argues that a Librarian holds a distinct and specialized post and, therefore, should not fall under the general category of non-teaching employees. In support of his contention, Mr. Biswas relies upon a Circular dated 8th

August, 2005, and submits that the post of 'Librarian' constitutes a single-post cadre specific to the school. Accordingly, the petitioner's claim for a higher scale of pay should be considered independently, and without impediment from any statute, including the West Bengal Schools (Control of Expenditure) Act, 2005, which applies to other categories of staff.

Mr. Chattopadhyay, learned Advocate appearing for the State, referring to the staff pattern of the school, submits that a 'Librarian' ought to be treated as a non-teaching staff of the institution.

Heard the learned Advocates representing the respective parties and perused the materials on record.

Undeniably, the petitioner was appointed as a Librarian in the school in 2000 with the qualifications of M.A. in Economics and B.Lib. Subsequently, in the year 2007, the petitioner enhanced his academic qualifications by obtaining a post-graduate degree in Library and Information Science. There is no controversy with regard to the fact that the said post-graduate qualification is relevant and directly related to the post held by the petitioner. To shed a light on the on this issue, it would be apt to reproduce the Clause (3) of ROPA Rule 1998, which reads as follows:

“All teachers, including physical education teachers and librarians of secondary schools who have improved/will improve their qualifications who were appointed with higher qualification in the subjects or group relevant to their teaching/appointment shall get higher scale of pay appropriate to their

qualifications with effect from the 1st January, 1996 or their date of improving qualifications whichever is later.”

Subsequently, by Notification No. 155(SE)B dated 13th July, 1999, Rule 12(3) of the ROPA Rules, 1998 was amended, and a proviso was inserted therein. The proviso to Rule 12(3) reads as follows:

“..... provided that such higher qualified teachers in the relevant subjects or group is justified as per approved staff pattern of that school. If such teacher is appointed through West Bengal School Service Commission, his/her pay will be fixed in the scale of pay as per his/her qualification mentioned by the West Bengal School Service Commission.”

Upon a careful perusal of the amended provisions of Rule 12(3) of the ROPA Rules, 1998, it is evident that the proviso inserted by way of amendment is not applicable to the post of Librarian.

Furthermore, Circular No. 93-SE(HS)/3S-23/92 dated 8th August, 2005, issued by the OSD and Ex-officio Deputy Secretary, Department of School Education, Government of West Bengal (Annexure-P to the affidavit-in-reply), clearly reflects the Department's decision to treat the post of Librarian not as part of the non-teaching staff, but rather as a single-post category specific to the school.

It is also significant to note that the West Bengal Schools (Control of Expenditure) Act, 2005, came into effect on 26th December, 2005, i.e., subsequent to the issuance of the above-mentioned Circular. Admittedly,

the said Act and its provisions are applicable only to teachers and non-teaching staff of schools. It contains no provision that disentitles a Librarian from receiving the benefit of a higher pay scale upon enhancement of academic qualifications relevant to his appointment.

Therefore, the inevitable conclusion that emerges from the foregoing discussion is that the West Bengal Schools (Control of Expenditure) Act, 2005, does not and cannot operate as a bar to the grant of higher scale of pay to a Librarian who has improved his qualification in a subject relevant to his appointment. Accordingly, I am of the considered view that the action of the respondents in withholding the benefit of higher pay scale to the petitioner is unjustified and without the authority of law.

Accordingly, I direct Respondent No. 3, the District Inspector of Schools (SE), Barrackpore, to grant the petitioner the benefit of a higher scale of pay, on account of the improvement of his qualifications in a subject relevant to his appointment, and to refix his pay scale, including payment of arrears, within a period of eight weeks from the date of communication of this order.

Consequently, the writ petition is, thus, disposed of. However, there shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)