

19 21.01.2025
rkd Ct.18

W.P.A. 19530 of 2023

Idrish Ali Molla

-vs-

The State of West Bengal & Ors.

Mr. Sakti Pada Jana,
Mr. Subhajyoti Das,
Ms. Sudipta Pramanik

....for the petitioner.

Ms. Debjani Sengupta,
Mr. Abhijit Chatterjee,
Ms. Koyeli Bag

....for the Vidyasagar University.

Mr. Arindam Chattopadhyaya,
Ms. Lipika Chatterjee

....for the State.

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

In the writ petition decision of the District
Inspector of Schools (SE), Murshidabad as
contained in the memo dated 22nd May, 2023 is
under challenge whereby prayer of the petitioner
for according postgraduate scale of pay was
spurned.

Learned advocate representing the
petitioner submits that the petitioner was
appointed as Assistant Teacher in Science Group
with educational qualification B.Sc. (Hons.) on and
from 1st November, 2008 in Nashipur High
Madrasah (H.S.) District –Murshidabad.

From the date of petitioner's appointment

he was granted Hons. Graduate scale of pay. Prior to his joining the post of Assistant Teacher petitioner enrolled in higher course of study for acquiring qualification of M.Sc. in Physics and subsequently he completed postgraduate course on appearing Part -II examination in the year 2012. .

It has been submitted on behalf of the petitioner that on an identical issue a judgment was delivered by the Hon'ble Division Bench in **Adeel Uz Zaman Vs. The State of West Bengal & Ors.** in **MAT 825 of 2020** dated 11th February, 2021. According to the petitioner, since the Hon'ble Division Bench in **Adeel Uz Zaman** (supra) has decided that in the event the candidate joins the post with Hons. Graduate scale of pay at the time when the said candidate has completed a part of higher course of studies for obtaining post graduation degree in the relevant subject of teaching the requirement to obtain permission from the concerned District Inspector of Schools to undergo higher course of studies, is not warranted. It has also been submitted that the ratio of **Adeel Uz Zaman** (supra) has already been affirmed by the Special Bench in the judgment dated 7th February, 2024.

Learned advocate representing the State

respondents has made submission to defend the decision taken by the concerned District Inspector of Schools in the memo dated 22nd May, 2023.

Having considered the submissions made on behalf of the parties and on perusal of the impugned memo dated 22nd May, 2023 issued by the District Inspector of Schools (SE), Murshidabad, it appears that the prayer of the petitioner for grant of postgraduate scale of pay was turned down since permission was not obtained from the concerned District Inspector of Schools before enrolling his name for higher course of studies.

The issue of obtaining permission from the concerned District Inspector of Schools in terms of the Circular dated 27th November, 2007 is no more *res integra* in view of the ratio of **Adeel Uz Zaman** (supra) as decided by the Hon'ble Division Bench and ratio of the judgment is applicable considering the fact that at the time of joining the post in the present case on 1st November, 2008 petitioner commenced postgraduate course.

It is also required to be recorded herein that the view expressed by the Hon'ble Division Bench in **Adeel Uz Zaman** (supra) has been approved by the Larger Bench in the judgment dated 7th

February, 2024.

While examining the entitlement of the petitioner to obtain postgraduate scale of pay on acquiring postgraduate degree this Court found that petitioner joined as permanent Assistant Teacher in Science group in the Madrasah on 1st November, 2008 whereas completed the higher course of study in 2012 by qualifying Part-II examination.

Petitioner obtained M.Sc. degree in Physics which is laboratory based subject; therefore Court required clarification whether petitioner pursued the course being a regular student and if such course was pursued being regular student how petitioner simultaneously worked as an approved Assistant Teacher and attended classes.

On such premise Vidyasagar University was added as additional respondent since petitioner obtained higher qualification from the said University.

Ms. Sengupta, learned advocate representing the University on instruction has submitted today that the course which petitioner completed for acquiring higher qualification was conducted under Personal Contact Programme (PCP).

Relevant documents are placed before this Court on behalf of the University wherefrom modality of PCP is disclosed and it appears that the classes under PCP are normally held in Winter Recess and Summer Recess or on the dates to be notified by the Director of Distance Education (DDE) and study centres.

On consideration of modalities which was followed for completing the course under PCP it appears that it was possible for the petitioner being an approved Assistant Teacher to attend requisite number of theoretical and practical classes as per norms of the said University since most of the classes were held in Winter Recess and Summer Recess.

Therefore, pursuing a course under PCP should not impinge upon the right of the petitioner to get benefits of postgraduate scale of pay if the petitioner is otherwise eligible.

In view of the above discussion, the impugned memo dated 22nd May, 2023 issued by the concerned District Inspector of Schools (SE), Murshidabad stands set aside.

The concerned District Inspector of Schools being respondent no. 3 is directed to grant postgraduate scale of pay to the petitioner from the

date of publication of the result of M.Sc. Part –II examination within a period of four weeks from the date of communication of this order.

Accordingly, the writ petition stands disposed of.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)