

WPA 23820 of 2017

30.4.2025

Tarak Chandra Roy @ Tarak Chandra Ray-vs- The State of West Bengal & Ors.

Ct.25,sl.

12

sk

Mr. Biswarup Biswas
Mr. Pradip Kr. Ghosh
Ms. Nupur Chaudhuri
...for the petitioner.

Mr. Supriyo Chattopadhyay
Mr. Sabyasachi Mondal
...for the State

The orders of the District Inspector of Schools (SE),
Nadia dated April 18, 2017 and July 20, 2017 are under
challenge in the instant writ petition.

The petitioner's claim is for higher pay scale
pursuant to his Master Degree in Physical Education
subject. The same has been turned down by the said
respondent authority, by dint of the impugned order,
firstly, in view of the provisions under the West Bengal
School Service Commission Act, 1997 (in order dated
April 18, 2017) and thereafter by dint of the corrigendum
letter dated July 20, 2017, thereby relying on the
Notification No. G.O.No. 155-SE (B) dated 13.07.1999.

The petitioner had joined as an Assistant Teacher
in Physical Education in the School on February 18,
2003. Before that he has concluded his qualification of
Master Degree in Physical Education through
regular course from the University of Kolkata.

In such perspective the petitioner has sought for
grant of higher pay scale in his favour for the subject of

Physical Education which is his relevant subject of the teaching.

Much has been dealt with by the various courts with regard to grant of higher pay scale to an Assistant Teacher in Physical Education subject, who is qualified with the Master Degree in the same subject.

The relevant portion is the Hon'ble Division Bench decision dated December 23, 2024 in FMA 538 of 2020 (The State of West Bengal Vs. Bakul Kumar Sing & Ors.) and the Hon'ble Division Bench has been pleased to hold that on the backdrop of the following extracted portion of the judgment of the Hon'ble Larger Bench of this Court in the case of (Utpal Kanti Karan-vs State of West Bengal & Ors. 2004 SCC Online Cal 1274).

“273(g)-If a teacher has partially completed higher study before entering service he/she would come under purview of G.O. No. 1595-SE(S) dated 26th December, 2005 and the question of taking permission from DIS-SE concerned would not arise”.

The issue regarding eligibility of the Assistant Teacher in Physical Education to be granted with the higher pay scale has been also dealt with by the Division Bench of this Court in appeal being No. FMA 261 of 2010 (Manas Paul Vs The State of West Bengal & Ors.) dated September 24, 2015 in the light of the decision of the Hon'ble larger Bench.

The Hon'ble Division Bench has been pleased to allow incumbent before it, the benefit of higher pay scale pursuant to his Master Degree qualification in the Physical Education subject.

The Court is also inclined to discuss about the other two decisions of the Division Bench dated September 24, 2015 in FMA 261 of 2010 (Manas Paul Vs. The State of West Bengal & Ors.).

In order to adjudicate the acceptability of the claim of the appellant the relevant provisions of the New Revised Scale of Pay of Teachers and Non-teaching Staff Revision of Pay and Allowance Rules, 1998 relating to the Employees of the West Bengal Recognized Non-Government Aided Educational Institutions arising out of Memorandum No. 25-SE(E)IM-102/98 dated February 12, 1999 is quoted below:

“12(3) 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 the date of improving qualifications whichever is later”.

In view of the above, the appellant is entitled to enjoy the benefit of postgraduate scale of pay in

connection with his service as an Assistant Teacher of the school under reference. After considering the pleadings of the writ application, we find that the statement with regard to his right to get the benefit of postgraduate scale of pay has been stated in paragraph 8 at page 10 of the paper book. It is evident from the impugned judgment that the above issue was not taken up for consideration while passing the impugned judgment for arriving at a decision with regard to the above claim of the petitioner.

The Court has held that on the relevant date, the petitioner would be covered under ROPA Rules, 1999 and the relevant portion thereunder, which would entitle him to be granted with the higher pay scale since been eligible with the Master Degree qualification in Physical Education subject.

The Court is pleased to rely on the other decision reported in 2014(3) CHN (Cal 160) (Shyamal Paul Vs. The State of West Bengal & Ors.).

Lastly, the decision of this Court dated September 20, 2024 may also be mentioned i.e. in Writ Petition No. WPA 23788 of 2017 (Dhananjay Sardar-vs-State of West Bengal & Ors).

The Court has relied on the following previous decision of this Court and found that the law is well settled that the Physical Education Teacher qualified

with the Master Degree course in the relevant subject shall be entitled for grant of higher pay scale, irrespective of whatever category of teacher, he has been appointed for.

The decision relied on by the Court are as follows:-

- i) Baishali Banerjee-vs-State of West Bengal reported in 2008 2 Cal LT 590;
- ii) Kalyan Kumar Ghosh-vs-State & Ors., order dated 30.7.2021 in W.P.No. 20835 of 2013.
- iii) Pradip Halder-vs-The State of West Bengal & Ors., order dated 26.06.2024 in WPA 23393/2017.
- iv) Utpal Kanti Karan-vs-State of West Bengal, AIR Online 2024 CAL 122.

For the reason as above and applying the law settled on the perspective of the factual background in the instant case, it is found that the petitioner is eligible for grant of relief in the instant case thereby setting aside the impugned order passed by the District Inspector of Schools (SE), Nadia.

Hence, the writ petition No. WPA 23820 of 2017 is disposed of with the following directions:-

- i) The impugned order dated April 18, 2017 passed by the District Inspector of Schools (SE), Nadia is set aside.

- ii) The impugned order dated July 20, 2017 passed by the District Inspector of Schools (SE), Nadia is set aside.
- iii) The writ petition is eligible for grant of higher pay scale to him commensurate to the postgraduate teachers from an appropriate date in accordance with law from the date of his appointment in service.
- iv) Hence, the respondent no. 3/District Inspector of Schools (SE), Nadia shall immediately allow re-fixation of his pay scale from the appropriate date in accordance with law, maximum within a period of three weeks from the date of communication of this order.
- v) The arrear salary as stand due and outstanding to the petitioner shall be paid positively within a period of three months from the date of communication of copy of this order.

With the above observations and directions the writ petition being WPA 23820 of 2017 is disposed of.

Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

.

(Rai Chattopadhyay, J.)