

201
08.01.2025
Court No. 25
D.Hira

WPA 24092 of 2017

Ram Prasad Mondal

Vs.

The State of West Bengal & Ors.

Mr. Biswarup Biswas,

Mr. Gora Chand Samanta.

... for the petitioner

Mr. Biswabrata Basu Mallick, Id. A.G.P.,

Mr. Safik Dewan.

... for the State

1. This is the second round of litigation by the petitioner, challenging the rejection of grant of higher pay scale to him upon his acquiring higher qualification in Physical Education subject.
2. The other order of this Court that is, dated December 1, 2016 passed in W.P. No. 27547 (W) of 2006 has dealt with the case of the petitioner in detail.
3. The Court having found the petitioner to be eligible for grant of higher pay scale, pursuant to his qualifying in M.P.Ed. degree has been pleased to direct that the authorities should act in considering the application of the petitioner for grant of higher pay scale dated August 23, 2006, in accordance with law.
4. Allegedly, by dint of the impugned order dated September 1, 2017 of the respondent District Inspector of Schools, Secondary Education, North 24 parganas, not only the said order of the Court dated December 1, 2016 has been contradicted and overridden but also an order for rejection for petitioner's prayer as above has been passed illegally,

by relying on a notification, which has already been set aside by this Court.

5. Mr. Biswarup Biswas, learned counsel appearing for the petitioner has relied on various judgments of this Court. He would say that in the judgment of ***Partha Chatterjee vs. State & Ors.*** reported in **2004 (2) CLJ 493i**, the Court has set aside the notification No. G.O. 155-SE(B) dated July 13, 1999.

6. He would further refer to the various other subsequent decisions of this Court as listed below, in which the similar proposition is said to have been followed.

(i). *Tapas Kumar Biswas vs. State of West Bengal & Ors.* in ***W.P. 3248 (W) of 2011***.

(ii). *Nadu Pandit vs. The State of West Bengal & Ors.* in ***W.P. No. 12758 (W) of 2005*** reported in **2015 0 Supreme (Cal) 227**.

(iii). *Chandan Sarkar vs. State of West Bengal & Ors.* in ***W.P. No. 15659 (W) of 2010*** reported in **2012 0 Supreme (Cal) 492**.

(iv). *Dolly Mallick vs. The State of West Bengal & Ors.* in ***W.P. No. 7245 (W) of 2007***.

(v). *Ajoy Kumar Saha vs. The State of West Bengal & Ors.* in ***W.P. No. 37772 (W) of 2013***.

7. Therefore, in accordance with G.O. No. 155-SE(B) dated July 13, 1999, no decision could have been taken by the respondent authority to that be in accordance with law, he says.

8. Hence, according to him, the impugned order is illegal and liable to be set aside.

9. Mr. Biswabrata Basu Mallick, learned Additional Government Pleader representing the State submits that necessary steps have already been taken by the said respondent for grant of higher pay scale to the petitioner including the other teachers.
10. He says that instructions to the respective District Inspector of Schools in the State has already been issued but without referring to any particular order therefor.
11. In that event, the Court finds that the present writ petition be disposed of, in view of the order of this Court dated December 1, 2016 in W.P. No. 27547 (W) of 2006 and the law settled by dint of the judgments as referred to above on behalf of the petitioner.
12. Pertinent is to quote the relevant portion of the judgment of Partha Chatterjee vs. State & Ors., which is as follows:-

“24. Fixation of different scales of pay for teachers of the same or different aided schools, with the same qualification, who perform the same duties and functions and are hence, equally circumstances violates principles of equal work for equal pay and offends Article 14 of the Constitution of India, more so in the absence of specific rules prescribing the requisite educational qualification for teachers of different classes.

25. In this context, it may be relevant to record, as pointed out by learned Counsel appearing on behalf of the petitioner, the prescribed minimum requisite qualification for the post of assistant teacher of Physical Education is a Bachelor of Physical Education.

26. Accordingly, the Government Order dated 22nd November, 1993 was issued clarifying that Physical Education teachers with masters degree in Physical Education from recognized Universities would be entitled to get higher scale of pay notwithstanding the fact that post graduate degree in Physical Education was not necessary for appointment as Assistant Teacher of Physical Education.”

13. As evidently and admittedly the impugned order has been passed by the respondent District Inspector of Schools, Secondary Education, North 24 Parganas relying upon the G.O. No. 155-SE(B) dated July 13, 1999, which has no force in the eye of law, any further, the said order is baseless and *de hors* the law.
14. Hence, the impugned order dated September 1, 2017 is set aside.
15. Let the writ petition be disposed of with the direction upon the respondent District Inspector of Schools, Secondary Education, North 24 Parganas/respondent no. 3 to immediately grant higher pay scale to the writ petitioner with effect from the date as directed by this Court in its earlier order dated December 1, 2016.
16. Refixation of salary of the petitioner be immediately made and arrear salary be remitted to him forthwith.
17. The entire exercise as above should be concluded by the said respondent within a period of three weeks from the date of communication of copy of this order positively.

18. Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.
19. With the above observations and directions, the writ petition being WPA 24092 of 2017 is disposed of, along with the pending applications, if any.
20. Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)