

WPA 27228 of 2017

Susovan Jana
Vs.
The State of West Bengal & Ors.

Mr. Chittapriya Ghosh
Mr. Goutam Acharya
Ms. Priyanka Saha
....for the petitioner

Mr. Tapan Kumar Mukherjee, learned AGP
Mr. Somnath Naskar
..... for the State

The present writ petition has been filed challenging the legality and/or propriety of the order dated 24.05.2017 passed by the District Inspector of Schools (SE), Purba Medinipur, in compliance with the order dated 26.09.2016 passed by a co-ordinate Bench of this Court in W.P. No. 9050(W) of 2009. By the order dated 24.05.2017, the District Inspector of Schools rejected the petitioner's prayer for grant of a higher scale of pay on account of acquisition of higher qualifications in the subject relevant to his teaching.

Mr. Ghosh, learned Advocate representing the petitioner, submits that the petitioner joined Ramgopalchak Bharati Vidyamandir situated at Ramgopalchak, Post Office – Pitambarchak, Police Station – Haldia, District – Purba Medinipur (hereinafter referred to as “the said school”) on 14.08.2000 with a pass graduate degree in the Pure Science Group. Subsequently, he improved his qualification in the relevant teaching subject on 24.03.2009.

Citing a decision by a Hon'ble Special Bench of this Court in WPA 9921 of 2007 (*Utpal Kanti Karan vs. State of West Bengal & Ors.*), he submits that a claim for enhancement of pay on acquisition of higher qualification in the course of service of a teacher joined with pass graduate degree is to be decided based on the relevant Rules in force at the time such qualification was acquired. He contends that, as the petitioner joined the school on 14.08.2000, and therefore, according to him, the Government Circular dated 12.02.1999, which was subsequently amended on 13.07.1999, is not applicable to his case. However, the District Inspector of Schools has improperly declined to grant the higher scale of pay to the petitioner.

Mr. Naskar, learned Advocate representing the State, submits that the petitioner's claim for enhancement to a higher scale of pay needs to be decided on the basis of the rules prevailing at the time of acquisition of higher qualification. He asserts the District Inspector of Schools (SE) has rightly rejected the petitioner's prayer for the grant of a higher scale of pay.

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

The issue of enhancement of pay on acquisition of higher qualification during the service career of an Assistant Teacher in schools across the State has been decided by the Hon'ble Special Bench in the case of *Utpal Kanti Karan* (supra). In paragraph 272 of the judgment, it was ruled as follows:

“Enhancement of pay on acquisition of higher qualification during the service career is dependent upon the relevant rules operating at the time of acquisition of higher qualification and cannot be claimed as a matter of right in absence of Rules”.

The Hon’ble Bench to elucidate the issue gave an example that any teacher who joined the school with a pass graduate degree after the government circular dated 12.2.1999 was issued, he would not be entitled to post graduate scale of pay unless the teacher is covered by the Government Order no. 735-SE (S)/SP-132/2002 as revised by the Circular no. 134-SE (S) dated 3rd November, 2004.

In the judgment of Utpal Kanti Karan (supra), it was recorded that on 3rd June, 2002, Rule 12(3) of ROPA, 1998 was further amended. After amendment, all Honours Graduate teachers appointed through the WBSSC who have obtained Post Graduate Degree in the subject relevant to their appointments prior to their date of joining in the school or who have completed their studies at the post graduate level in the subject relevant to their appointment or have appeared at the examination but the result was not published till the date of joining may be allowed higher scale of pay with effect from the date of joining or the date following the last date of examination, whichever is later.

This was in view of the fact that Honours Graduate candidates have to compete with the post graduate candidate in the test held by the WBSSC and a single panel is prepared by the WBSSC for the two sets of degree holders.

Therefore, as noted previously, the petitioner joined the school as an Assistant Teacher with a pass graduate degree on 14.08.2000, he acquired the higher qualification, on 24.03.2009.

Therefore, the petitioner improved his qualification after 12th February, 1999 and he is not covered by the Government order no. 735-SE (S)/SP 132/2002.

Furthermore, the petitioner was appointed through the West Bengal School Service Commission and consequently, his/her pay will be fixed in the scale of pay corresponding to the qualification mentioned by the West Bengal School Service Commission as per the circular dated 13.07.1999.

Undisputedly, the petitioner was appointed based on the recommendation made by the West Bengal Regional School Service Commission and the petitioner declared himself to be a pass graduate degree holder while submitting his candidature for the post. Therefore, as he stated his qualification as a pass graduate degree holder, in the Commission's letter of recommendation his qualification was mentioned as 'pass graduate'. Therefore, in terms of the Circular dated 13.07.1999 also, he is not entitled to any benefit arising from the subsequent enhancement of his qualification.

In view thereof, I do not find any infirmity in the order passed by the District Inspector of Schools rejecting the petitioner's prayer for grant of a higher scale of pay.

Accordingly, no interference is warranted in the present writ petition, which is hereby dismissed.

There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)

