

MI- 20.02.2025
123 Ct.18
rkd

W.P.A. 26430 of 2023

Md Mirajuddin Khan

-vs-

The State of West Bengal & Ors.

Mr. K. M. Hossain,

....for the petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Ranjan Saha

....for the State.

Matter is heard in presence of the learned advocates representing the petitioner and the State respondents.

Petitioner prayed for sanction of higher scale of pay for possessing M.M. qualification.

Petitioner was appointed under pass graduate category with effect from 28th October, 2009 based on recommendation made by the Secretary, West Bengal Madrasah Service Commission on 1st October, 2009. Such recommendation of the Commission stipulated academic qualification of the petitioner as pass graduate and accordingly petitioner was appointed in a post which was earmarked for pass graduate candidate. Petitioner obtained M.M. qualification after his appointment on 28th October, 2009 and subsequently, claimed sanction of postgraduate

scale of pay.

Whether the petitioner who was recommended under pass graduate category and was sanctioned pass graduate scale of pay with effect from 28th October, 2009 on enhancement of qualification i.e. M.M. is entitled to receive higher scale of pay for said M.M. qualification.

Issue is no more *res integra* in view of the judgment of the Hon'ble Special Bench dated 7th February, 2024 passed on a batch of matters first one being WPA 9921 of 2007 (*Utpal Kanti Karan – vs- State of West Bengal & Ors.*).

It has been observed in *Utpal Kanti Karan (supra)* that a teacher who has entered service in the pass graduate category shall not be entitled to higher scale of pay merely because he has acquired higher qualification subsequent thereto or prior to his appointment. Similarly, a teacher with the postgraduate degree, if applied, as a pass graduate candidate and appointed in the pass graduate category shall not be entitled to claim higher scale of pay after his appointment. The reason which was assigned by the Hon'ble Special Bench is a teacher with the postgraduate/Hons. degree ought to have competed with candidates having postgraduate/Hons. degree and allowing any

increment or higher scale of pay to such a teacher who has entered the service in the pass graduate category in spite of being an Hons. graduate or postgraduate would allow back door entry thereby depriving deserving candidates with higher qualification.

In view of the aforesaid observations made by the Hon'ble Special Bench in the judgment dated 7th February, 2024 prayer of the petitioner for sanction of higher scale of pay is refused.

The writ petition stands dismissed.

There shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)