

WPA 30181 of 2013

**Soumen Das
Vs.
The State of West Bengal & Ors.**

**Mr. Debabrata Roy,
Ms. Karabi Roy,
Mr. Soumik Mondal,
Ms. Sarbani Mukhopadhyay.
... for the petitioner**

**Mr. Pantu Deb Roy, ld. A.G.P.,
Mr. Pannalal Bandopadhyay.
... for the State**

1. The petitioner being a qualified incumbent with the Master's degree in Physical Education has entered into service as an Assistant Teacher on March 14, 2001.
2. According to the petitioner, at that point of time, he would have been considered to be governed under the provisions of ROPA-1998 which would entitle him for grant of higher pay scale, in terms of his Master's Degree qualification.
3. Hence, the petitioner has applied for grant of higher pay scale before the School Authority. The School Authority has approved the prayer of the writ petitioner for grant of post graduate scale of pay and forwarded its recommendation to that effect, the District Inspector of Schools, Secondary Education, Malda, vide letter dated January 2, 2003, seeking extension of similar benefit to the petitioner, in terms of the resolution of the School Managing Committee.

4. However allegedly, all as above have gone into vain, in so far as the petitioner has not been granted the post graduate pay scale, till date.
5. Mr. Debabrata Roy, learned counsel for the petitioner says that the inaction as above of the respondent authority tantamounts to violate to this Court's various other orders passed earlier in cases concerning similar subject matter.
6. Mr. Roy, would say that it has now been well-settled by dint of the order of this Court regarding eligibility of the petitioner being a Masters' degree qualified person, who have entered into service after obtaining Masters' degree in Physical Education, though could not have been placed as against the post graduate scale of pay, in so far as only posts marked with graduate qualification and pay scale, are available in the State, so far as Physical Education subject is concerned. Accordingly it is stated that the petitioner would be eligible for grant of higher pay scale, in terms of the law so settled by the Court earlier.
7. Mr. Roy would further submit that the Hon'ble Larger Bench's judgment in the case of ***Utpal Kanti Karan vs. State of West Bengal & Ors.*** reported in ***2024 SCC Online Cal 1274*** should not be made applicable in case of the present petitioner in view of the fact that the Hon'ble Larger Bench in the said case has not dealt with the similar issue which is involved in the present case and dealt with by many other judgments earlier passed by this Court.
8. In spite of service of notice, none appears for the respondent State.

- 9.** Hence, this matter has taken up for final disposal in absence of the State respondent.
- 10.** Let the District Inspector of Schools, Secondary Education, Siliguri, Darjeeling immediately consider the prayer of the writ petitioner for grant of higher pay scale, in terms of the petitioners letter dated March 25, 2009 and dispose it of in accordance with law.
- 11.** The said respondent shall allow the petitioner and afford a reasonable opportunity of hearing to the petitioner and allow him to rely on the judgments of this Court in this regard.
- 12.** Let the said respondent consider of the petitioner's application as above within a period of three weeks from the date of communication of copy of this order and dispose of the same by dint of a reasoned order, if not the prayer of the petitioner is immediately allowed by him.
- 13.** Needless is to mention that if the prayer of the petitioner is allowed by the said respondent, it shall immediately taken up follow up steps in accordance with law, for grant of higher pay scale to the petitioner.
- 14.** Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.
- 15.** With the above observations and directions, the writ petition being WPA 30181 of 2013 is disposed of, along with the pending applications, if any.

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

(Rai Chattopadhyay, J.)