

17.07.2025.
29
Ct.No.7.
as

WPA 11889 of 2020

Ardhendu Mandal
Vs.
The State of West Bengal & Ors.

Mr. Shibaji Kumar Das,
Mr. Dipendu Sarkar.
...for the Petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Gourav Das.
...for the State.

1. The present writ petition has been preferred, praying for the issuance of a writ of mandamus, directing the concerned respondents to grant the benefit of a higher scale of pay to the petitioner on account of his improved qualification in the subject relevant to his teaching.
2. Succinctly stated, the essential facts that led to the presentation of this writ petition are that based on the recommendation made by the West Bengal Central School Service Commission (in short, Commission), the petitioner initially joined Haludkanali Scheduled Caste High School, Bankura as Assistant Teacher in English.
3. Subsequently, he appeared for the examination conducted by the Commission for the post of Assistant Teacher in English. Upon qualifying, he was appointed as an Assistant Teacher in English at Moshiara High School, Bankura (hereinafter referred to as 'the school') on 23rd November, 2002. His appointment to the post of Assistant

Teacher in English in Moshiara High School was approved with effect from 28th November, 2002. Desiring to obtain a Postgraduate Degree, i.e., M.A. in English, the petitioner approached the Managing Committee by submitting an application seeking permission to appear for the examination.

4. The Managing Committee granted permission by adopting a resolution. The petitioner successfully obtained his M.A. in English. His last date of examination was 28th August, 2011. Thereafter, he submitted an application before the concerned District Inspector of Schools, through proper channel, requesting the grant of a higher scale of pay due to the enhancement of his qualification.

5. However, despite receipt of such application, the District Inspector of Schools did not consider the same and failed to take any appropriate decision thereon. Consequently, the petitioner was compelled to prefer this writ petition, alleging inaction on the part of the concerned District Inspector of Schools in considering his application.

6. The record reveals that a Coordinate Bench of this Court, by passing an order in the said writ petition on 9.8.2023, directed the concerned District Inspector of Schools to hold a meeting with the petitioner and the school authority, and to take a decision on the petitioner's prayer for grant of a higher scale of pay.

7. Pursuant thereto, a meeting was held, and the resolution adopted in that meeting has been brought on record by filing a report in the form of an affidavit. The resolution indicated that the District Inspector of Schools decided that,

since the petitioner enhanced his qualification without obtaining prior permission from the District Inspector of Schools (SE), Bankura, he is not entitled to the Postgraduate scale of pay. Needless to state, the petitioner is aggrieved by such decision of the District Inspector of Schools.

8. Mr. Shibaji Kumar Das, learned advocate appearing on behalf of the petitioner, submits that the petitioner joined the said school in the year 2002, i.e., prior to the promulgation of the West Bengal Schools (Control of Expenditure) Act, 2005 (hereinafter referred to as "the Act of 2005").

9. He submits that the ROPA Rules prevailing in the year 2002 and even , the provisions of Section 14(3) of the said Act provide that every teacher of a school, if appointed in the Honours Graduate or Postgraduate scale of pay, shall be entitled to claim a higher scale of pay upon acquiring a Postgraduate degree in the manner as may be specified by order.

10. Subsequently, an order bearing No. 1595/SE (S) dated 26th December, 2005 was issued by the competent authority. Clause (c) of the said order clarified that any teacher intending to claim the benefit of a higher scale of pay upon improvement of academic qualifications must obtain prior permission from the competent authority before pursuing such enhancement of qualification.

11. He further submits that another order, bearing No. 593-SE(B) dated 27th November, 2007, was issued by the School Education Department. The said order clarified that, in the case of a teacher appointed in the Honours category, the

Managing Committee of the school shall be the competent authority to grant permission for improvement of academic qualification. Mr. Das further draws attention to another order dated 19th May, 2014, from which it is also evident that the Managing Committee is the competent authority to grant prior permission to a teacher seeking to improve his qualification.

12. Mr. Das refers to a decision of the Hon'ble Special Bench of this Court reported in *2024 SCC OnLine Cal 1274 (Utpal Kanti Karan vs. State of West Bengal & Ors.)*, wherein it was held that the order dated 27th November, 2007 had not been published in the Official Gazette and, therefore, lacked statutory force. He contends that the present petitioner, having obtained permission from the Managing Committee, duly improved his academic qualification, and as such, is entitled to the benefit of a higher scale of pay. According to him, the District Inspector of Schools acted illegally in refusing to extend such benefit to the petitioner.

13. Mr. Gourav Das, learned Advocate representing the State, submits that any teacher is at liberty to enhance his qualification; however, if that teacher seeks to obtain a higher scale of pay on account of such enhancement, prior permission must be obtained from the District Inspector of Schools. Mr. Das further submits that the judgment of the Hon'ble Special Bench reported in *2024 SCC Online Cal 1274 (Utpal Kanti Karan v. State of West Bengal & Ors.)* held that persons who were already pursuing their Postgraduate course at the time of joining service may improve their qualifications without obtaining prior permission from the District Inspector of

Schools. However, any other Assistant Teacher who does not fulfill such a condition is required to obtain prior permission from the concerned District Inspector of Schools.

14. Heard the learned Advocates appearing for the parties and perused the materials on record.

15. Admittedly, as per the provisions of ROPA Rules prevailing at the time of petitioner's joining the school and the provision of Section 14(3) of the West Bengal Control of Expenditure Act, 2005, lay down that an Assistant Teacher who joined in the Honours or Postgraduate category is entitled to the benefit of a higher scale of pay upon enhancement of their qualification in the subject relevant to his teaching. The present dispute arises as to whether such a teacher is required to obtain prior permission from the concerned District Inspector of Schools.

16. However, to address this issue, a notification was published in the Official Gazette by the School Education Department, wherein it was clarified that the competent authority to grant permission for enhancement of qualification would be the Managing Committee would be indicative. Therefore, the stand initially taken by the State was that an Assistant Teacher could improve his qualification in the subject relevant to his teaching upon obtaining prior permission from the Managing Committee. Subsequently, the State issued a notification vide No. 593 SE(B) dated 27.11.2007, wherein it sought to alter its position by stating that an Assistant Teacher who wishes to avail himself/herself of the benefit of a higher scale of pay must obtain prior

permission from the concerned District Inspector of Schools before enhancing his qualification. However, the Hon'ble Division Bench in *Utpal Kanti Karan* (supra), taking note of the fact that Notification No. 593SE(B) was not published in the Official Gazette, held that such notification does not have statutory force.

17. In this situation, it can safely be concluded that an Assistant Teacher who joined in the Honours category may enhance his/her qualification by obtaining prior permission from the Managing Committee and is also entitled to the benefit of a higher scale of pay due to such enhancement of qualification.

18. Therefore, I do not find any justification in the decision of the concerned District Inspector of Schools refusing to grant the higher scale of pay in favour of the petitioner. Accordingly, the said decision, whereby the District Inspector of Schools declined to extend such benefit, is set aside. The writ petition is disposed of with a direction to the District Inspector of Schools to grant the Postgraduate scale of pay to the petitioner with effect from the date of his last examination, i.e., 28th August, 2011, along with all consequential benefits, including arrears of salary, positively within a period of six weeks from the date of receipt of a copy of this order.

19. With this observation and order, this writ petition is disposed of.

20. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)

