

Sl. No.21
17.02.2025
Suman
Ct. 02

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

WPA 373 of 2025

Aminur Rahaman Byapari
VS.
The State of West Bengal and Ors.

Mr. Shuvro Prakash Lahiri
Mr. Debjit Kundu
..for the petitioner

Mr. Amales Roy, Sr. Adv.
Mr. Nigam Mittal
..for respondent nos. 3 and 4.

Mr. Pretom Das
Mr. Kumar Shantanu
..for the State

The petitioner successfully qualified in the First State-Level Selection Test, 2016, for the recruitment of Assistant Teachers at the Upper Primary level schools. Consequently, the petitioner's name was recommended for appointment.

However, the petitioner apprehended that the salary for the position of Assistant Teacher at the Upper Primary level may be lower than the salary currently received as a Primary School Teacher. The petitioner's request for pay protection was rejected by the State by an order dated January 17, 2025, which stated that if the petitioners join upper primary schools, they must subsequently apply for pay protection, which the School

Education Department, Government of West Bengal, will evaluate on a case-by-case basis.

Thereafter, the petitioner, along with some other candidates, filed WPA 2193 of 2025 before the Principal Bench of the High Court at Calcutta to challenge the order dated January 17, 2025.

On January 30, 2025, a Co-ordinate Bench of this Court passed the following order:

“Matter be included in the list seven weeks hence for final disposal.

The petitioners without prejudice to their rights and contentions are at liberty to join to their recommended upper primary schools as Assistant Teachers within a period of two weeks from date.

In the event, the petitioners are found ineligible to the pay protection as prayed for; they would be at liberty to go back to their post of Assistant Teachers at Primary Schools.

Parties to act on the server copy of this order duly downloaded from the official website of this Court.”

However, some of the candidates were not permitted to join the upper primary schools, as the relevant District Primary School Council authorities did not release them. This led one of the petitioners in WPA 2193 of 2025, namely Sudip Barman, to file another writ petition, WPA 3225 of 2025 (*Sudip Barman vs. The State of West Bengal & Ors.*), which was disposed of by a Co-ordinate Bench of this Court with the following directions:

“The petitioner without prejudice to his rights and contentions is at liberty to join to his recommended upper primary school as Assistant Teacher within a period of two weeks from date. The concerned District Primary School Council is directed to issue temporary release order to the petitioner.

In the event, the petitioner is found ineligible to the pay protection as prayed for; he would be at liberty to go back to her post of Assistant Teacher at Primary School.

Parties to act on the server copy of this order duly downloaded from the official website of this Court.”

By filing the present writ petition, the petitioner seeks the same relief that was granted in WPA 3225 of 2025.

Mr. Amal Roy, learned senior advocate appearing for Respondent Nos. 3 and 4, opposes the petitioner’s prayer. He submits that there is no certainty regarding the disposal of the writ petition challenging the pay protection claim of the petitioner as an Upper Primary Teacher. Therefore, the petitioner cannot be permitted an indefinite release from service.

I find merit in the submissions of Mr. Roy. In my opinion, he has correctly pointed out that there is no provision under the applicable service rules for the petitioner to be temporarily released from service.

In light of the foregoing, this writ petition is disposed of with the following order:

The District Primary School Council, Cooch Behar, shall allow the petitioner to be retained on lien as a special case to serve as an Upper Primary School Teacher for a period of one year. The lien period may be extended for an additional year. It is expressly clarified that the lien period shall not be extended beyond two years.

Within this two-year-lien period, the petitioner may return to his position of Assistant Primary Teacher. After the completion of the two-year lien period, the petitioner shall have no discretion to return to the position of Assistant Primary Teacher.

Accordingly, **WPA 373 of 2025** stands disposed of.

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

(Kausik Chanda, J.)