

24.04.2025
(D/L 5)
(SKB)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

**MAT 18 of 2025
With
IA NO: CAN 1 of 2025**

The Siliguri Primary School Council and others
Versus
Tapas Kumar Roy and others

Mr. Kamalesh Bhattacharjee,
Mr. Tara Prasad Halder,
Mr. Subhasish Misra,
Mr. Satyajit Paul
... for the appellants.

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

Mr. Sanjay Mazoomdar,
Mr. Rahul Ghatak
... for the respondent nos.1 to 4.

1. Heard the learned counsel for the parties.
2. The petitioners/respondent nos.1 to 4 approached the writ court for grant of 'A' category pay scale as an Assistant Teacher in a government aided primary school. The petitioners were claiming parity with the beneficiaries of the orders passed by the Division Bench in FMA 804 of 2019 and MAT 107 of 2022.
3. The claim of the writ petitioners was considered by the Hon'ble Single Judge and a direction issued to the present appellants to consider the

claim at par with the two Division Bench orders, referred above, but after giving an opportunity of hearing to the writ petitioners.

4. The learned counsel for the appellants submits that the claim for parity of the petitioners/respondent nos.1 to 4 is being considered by the authorities. The authorities, however, are aggrieved by the order of the learned Single Judge inasmuch as though the petitioners' claim parity with the beneficiaries of the two Division Bench judgments wherein no interest has been awarded, the Hon'ble Single Judge has directed for award of interest @ 4% per annum since the date of entitlement of the petitioners till the actual tendering of the amount to each of them.
5. The learned counsel for the petitioners/respondent nos.1 to 4, on the other hand, submits that the authorities have not complied with the petitioners' claim in the time frame for consideration of the petitioners' claim in the order passed by the Hon'ble Single Judge.
6. Considering the rival submissions, we find force in the submissions advanced by the learned counsel for the petitioners/respondent nos.1 to 4. Though the learned Single Judge has directed

consideration of the petitioners' claim in light of the decision of the two judgments of the Hon'ble Division Bench, wherein no interest has been awarded, the Hon'ble Single Judge has proceeded to direct for payment of interest. The impugned order dated 22.01.2025 passed by the Hon'ble Single Judge does not manifest any grounds for directing award of interest.

7. Once there is a finding that the petitioners are entitled to consideration in light of the two judgments of the Division Bench, there was no scope based on any distinguishing feature to grant anything in excess than what has been allowed by the two Division Bench judgments, the claim being founded on parity. The direction in the order passed by the Hon'ble Single Judge in the order dated 22.01.2025, under appeal in the present case, insofar as payment of interest @ 4% per annum is concerned, is found to be unsustainable and is set aside.

8. In so far as the grievance of the petitioners/respondent nos.1 to 4 that the authorities have not complied with the directions till date, it is submitted by the learned counsel for the appellants that the hearing has already been completed in compliance with the order

passed by the learned Single Judge. The authorities are *bona fide* awaiting decision of this appeal. It is submitted that within four weeks from disposal of the appeal they will ensure compliance with the order passed by the Hon'ble Single Judge.

9. Since we have modified the order of the Hon'ble Single Judge to the limited extent as above, we allow the appellants four weeks' time for ensuring compliance with the order passed by the Hon'ble Single Judge.

10. The appeal is disposed of.

11. The connected application being CAN 1 of 2025 is disposed of accordingly.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)