

Item no.15
12.08.2025
Saswata

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 1656 of 2025

**Sagar Rai
-versus
The State of West Bengal & Ors.**

Mr. Ekramul Bari
Mr. Sk. Imtiaj Uddin
Ms. Rinka Chakraborty

...For the Petitioner

Mr. Subir Kumar Saha, AGP
Mr. Sumit Kumar

...For the State.

1. Affidavit of service filed in Court today is retained with the record.
2. The instant writ petition has been filed, inter alia, praying for a direction upon the respondents particularly the District Inspector of Schools (S.E.), Darjeeling to grant post graduate scale of pay to the petitioner in terms of his post graduate qualification in the subject relevant to his teaching subject and group from the date of shifting the post from work education to language group.
3. Records reveal that the petitioner was recommended on the basis of qualification of his eligibility for the post of Assistant Teacher in respect of the subject work education under category OBC by the Chairman, WBCSSC dated 14th March 2017. Pursuant to the

aforesaid, an approval for appointment was issued on 5th April 2017 whereunder the petitioner was appointed as an Assistant Teacher under the group 'work education' with effect from 24th March 2017. The petitioner claims that the petitioner had acquired post graduate degree in Nepali from the North Bengal University through distance mode at the annual examination held in the year 2005.

4. Records would also reveal that by an office memorandum dated 2nd January 2020 the petitioner was shifted from the post of Assistant Teacher in 'work education group' to 'language group' as an approved teacher in a normal vacant post, created due to the retirement of Sri Devendra Rai who was an approved Teacher in charge, with effect from 30th September 2019. Immediately upon his shifting to the 'language group', the petitioner has applied in requisite format for post graduate scale of pay, which was forwarded by the School to the District Inspector of Schools (S.E.) vide communication dated 26th June 2020. It would further transpire from the records that the District Inspector of Schools (S.E.) by an office memorandum dated 1st October 2020 had categorically noted that the petitioner holds the

master degree without honours. As such, the District Inspector of Schools (S.E.), Darjeeling at the relevant point of time did not permit the petitioner to draw the post graduate scale of pay, although his masters degree is recommended by WBCSSC. The aforesaid memo was forwarded by the District Inspector of Schools (S.E.), GTA, Darjeeling to the School Education Department.

5. Records reveal that in furtherance to the above, the Deputy Director of School Education, West Bengal had referred the matter back to the District Inspector of Schools (S.E.), Darjeeling by observing that he is competent to decide the scale of pay as asked for in terms of Section 14 of the West Bengal Schools (Control of Expenditure) Act, 2005 (hereinafter referred to as the “said Act”).

6. Mr. Bari, learned advocate appearing for the petitioner by drawing attention of this Court to the circular no. 57-SE(S) dated 27th January 1995 would submit that having regard to the direction issued therein, the petitioner is entitled to draw the pay according to his higher qualification as prescribed by the State Government from the State of his/her placement in the vacant post.

7. Having heard the learned advocates appearing for the respective parties I note that the petitioner was appointed as a pass graduate Assistant teacher with BA degree in 'work education' group by the District Inspector of Schools (SE), G.T.A., Dargeeling dated 5th April 2017. It is thus clear that the petitioner despite the post graduate degree has entered service in the pass graduate category and as such ordinarily after his appointment, shall not be eligible to higher scale of pay. The recording made in the recommendation of the WBSCC as regards the petitioner's post graduate qualification can only be considered to be a reconsideration in 'pass' category since the Honours and post graduate candidate are not required for the post. The petitioner, however, claim his right to higher pay by relying on the circular dated 27th January 1995, consequent upon his shifting order dated 2nd January 2020. In my view, having regard to the observation made in the case of **Utpal Kanti Karan v. State of West Bengal & Ors.** reported in **2023 SCC OnLine Cal 5745** in view of Section 14 of the said Act the previous circulars are not applicable. The petitioner was not allowed to draw higher scale of pay. The

petitioner accepted such pay. The memo dated 1st October 2020 issued by the District Inspector of Schools (SE) would also confirm the fact that as the petitioner was holding masters degree without honours, no higher pay was granted. The same was never challenged by the petitioner at any point of time. The aforesaid was also notified by the District Inspector of Schools (S.E.), Darjeeling vide his above memo to the Deputy Director of School Education, West Bengal. It is only thereafter, that the Deputy Director of School Education had observed that the District Inspector of Schools (S.E.) is entitled to take a decision in terms of Section 14 of the said Act as amended. The said office memorandum has been issued on 8th January 2025.

8. It would transpire that the petitioner has all along accepted the determination made by the District Inspector of Schools (S.E.) as regards his qualification as noted in the memo of appointment as the aforesaid pay of scale and has never raised any objection. In fact, the present writ petition has also been filed without any prayer for demand of justice. On such ground as well, the writ petition cannot be entertained.

9. The writ petition is accordingly dismissed without any order as to costs.

10. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)