

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Md. Shabbar Rashidi

WPA 3512 of 2020

**Md. Johirul Islam
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Md. Salahuddin, Advocate
Md. Ahsanuzzaman, Advocate

For the State :Mr. Supriyo Chattopadhyay, Ld. AGP
Mr. Susanta Pal, Advocate
Mr. Suman Dey, Advocate

Hearing & Judgment on : **April 17, 2026**

MD. SHABBAR RASHIDI, J.:-

1. Exception to the affidavit filed on behalf of the petitioner in Court be taken on record.
2. The writ application has been filed by the writ petitioner alleging, *inter alia*, the non-consideration of his representation filed on behalf of the writ petitioner on September 17, 2019.
3. The case made out by the petitioner that the petitioner having requisite qualification was appointed as an Assistant Teacher in Sahajadpur Omrapur High School by an order dated September 1, 1999. After such appointment, the educational qualification documents and other

- documents were duly scrutinized by the District Inspector of Schools (SE), Murshidabad and the appointment of the petitioner was approved. Later on, the petitioner was transferred from Sahajadpur Omrapur High School in terms of the West Bengal School Service Commission (General Transfer) Rules, 2013. Upon receipt of the transfer order, the writ petitioner duly joined as an Assistant Teacher in Mirzapur Dwijapada High School on December 17, 2014 which was also accepted by the Secretary of the said school later on approved by the District Inspector of Schools (SE), Murshidabad vide Memo No.437-G dated February 9, 2017.
4. It is further case of the petitioner that after joining the said school, during the continuance of service, the petitioner completed B.Ed. course with due permission of the concerned authority and was passed in 1st Class. Thereafter, the pay of the petitioner was fixed in terms of G.O. No.46 SE(B) dated February 27, 2009 & 181 SE(B) dated October 8, 2009 and 3 SE(B) dated February 10, 2010 to the next higher scale for the 18 years service benefits. Such fixation was also approved by the District Inspector of Schools (SE), Murshidabad vide Memo No.556-G dated February 18, 2016. Later on, the petitioner came to know the Commissioner of School Education Department, Government of West Bengal issued an order being No.806-SE/S/10M-29/16 (Pt III) dated July 8, 2019 by which the incremental benefits were given to the untrained teachers appointed during the period of 2006 to 2009 upto

- July 1, 2015 in relaxation of the existing rules and the said benefit was extended to the appointees of 2002 to 2005 with the concurrence of the Finance Department. The writ petitioner made out a case that since the aforesaid benefits were provided to all the appointees between 2002 and 2005 upto July 1, 2015, the writ petitioner was also entitled to receive such benefits irrespective of the fact that his pay scale was fixed and enhanced after he obtained degree of B.Ed. Even thereafter, the petitioner was allowed certain incremental benefits in course of his service.
5. By a representation dated September 17, 2019 addressed to the Commissioner of School Education, Government of West Bengal asking the authorities to look into the entitlement of the writ petitioner for the benefits given under the aforementioned Government Orders.
6. The said representation filed by the writ petitioner having not been considered and decided by the concerned authorities, the writ petitioner filed the instant writ application seeking following reliefs:-

“a) A Writ of and/or Order in the nature of Mandamus commanding the respondents, their officers, men and agents and each of them to extend the benefits to the petitioner on the basis of the Order dated 08.07.2019 issued by the Commissioner of School Education, Government of West Bengal and to release the differential amount forthwith to the petitioner;

b) A Writ of and/or Order in the nature of Mandamus commanding the respondents, their officers, men and

agents and each of them to show cause as to why they should not be directed to extend the incremental benefits to the petitioner as reflected in the Order dated 08.07.2019 issued by the Commissioner of School Education, Government of West Bengal and to release the differential amount together with @18% interest to the petitioner;

c) A Writ of and/or Order in the nature of Certiorari directing the respondents to produce the records and proceedings in connection with this case before this Hon'ble Court, so that the conscionable justice may be done to the petitioner by giving necessary direction upon the said respondents;

d) Rule NISI in terms of prayers (a), (b) and (c) above;

e) Ad-interim order directing the respondents to compute the differential amount by extending the incremental benefits to the petitioner as reflected in the Order dated 08.07.2019 till the disposal of the rule;

e) To make the rule absolute;

f) Costs and incidental charges to this petition.”

7. It is submitted on behalf of the learned Advocate appearing on behalf of the petitioner that the said representation of the petitioner has not been considered by the authorities till date and he has not been granted the benefits under the G.O. No.806-SE/S/10M-29/16 (Pt III) dated July 8, 2019. The aforesaid G.O. reads as under:-

**“Government of West Bengal
School education Department
Secondary Branch
Bikash Bhavan, Salt Lake, Kolkata- 91**

No. 806-SE/S/ 10M-29/ 16 (Pt III)

Date: 08-07-19

ORDER

*In partial modification of this Deptt. Order No. 118-SE/S/ 10M-29/16 dated 06-02-2018, the benefit of increments given to the untrained teachers appointed during the period **2006 to 2009 upto 01-07-2015**, in relaxation of existing Rules, is hereby extended to the untrained teachers, who are identical in all respect to the untrained teachers, as detailed in the above-noted Order and appointed during the years **2002 to 2005**, on the same rationale and under same terms and conditions, as stated in the above-noted Order.*

*All concerned shall take necessary action to restore lost increments and all benefits thereof to the above-mentioned affected teachers appointed during the years **2002 to 2005 upto 01-07-2015** and other follow-up actions in the matter.*

*This issues with the approval of the **Competent Authority** in this Deptt. and concurrence of the Finance Deptt. Vide **UO NO : Group P1/2019-2020/0067, UO Date 07/06/2019.***

*Sd/-
**Commissioner
to the Govt. of West Bengal***

No. 806/ 1(10)-SE/S/ 10M-29/ 16 (Pt III)

Date: 08-07-19”

8. By the said G.O. dated July 8, 2019, certain benefits of increment were given to the untrained teachers appointed during the period of 2006 to 2009 upto July 1, 2015 in relaxation of the existing Rules were extended to the untrained teachers who were identical in all

- respect to the untrained teachers in the Deptt. Order No. 118-SE/S/10M-29/16 dated February 6, 2018. The fact that the writ petitioner falls under the category of identical in all respect to the untrained teachers is a factual issue which is to be decided by the authorities in consideration of the aforesaid Deptt. Order No. 118-SE/S/10M-29/16 dated February 6, 2018 as well as G.O. No. 806/1(10)-SE/S/10M-29/16 (Pt III) dated July 8, 2019. Such exercise has not been carried out by the authorities inspite of a representation filed on behalf of the writ petitioner.
9. Learned Advocate appearing for the petitioner submits that his client dealt with all allegations made in the affidavit by State respondents in his exception filed in Court today.
 10. It is specifically stated by the learned Advocate appearing for the State respondents that the petitioner was not entitled for any such benefit. However, learned Advocate for the State respondents also submits that the representation filed on behalf of the writ petitioner dated September 17, 2019 is required to be disposed of in accordance with law. Nothing has been placed before this Court that such representation filed on behalf of the writ petitioner was actually considered and decided by the authorities.
 11. Under such circumstances, it would be appropriate to direct respondent no.3 to consider and dispose of the representation filed on behalf of the writ petitioner on September 17, 2019 after providing the

writ petitioner and/or his representative an opportunity of being heard in accordance with law. The respondent no.3 shall pass a reasoned order on such representation which shall be communicated to the writ petitioner. The entire exercise shall be carried out within a period of eight weeks from date.

12. **WPA 3512 of 2020** is **disposed of** accordingly without any order as to costs.

(Md. Shabbar Rashidi, J.)

(AD)