08.10.2026
Sl. No.365
Ct. No.14
gd

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5853 of 2026

GM Habib Mostafa
VS
The State of West Bengal and Ors.

Mr. Ratul Biswas
Mr. Somesh Kr. Ghosh
Ms. Komal Singh
Ms. Bipasha Bhattacharyya
Mr. Suman Mukherjee
...for the Petitioner.

Ms. Anita Kundu
Mr. Kawaljeet Singh
...for the State.

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1. Affidavit of service filed by the petitioner is taken on record.

2. Despite service none appears on behalf of District Primary School Council, North 24-Parganas.

3. By the present writ petition the petitioner seeks direction upon the respondent authorities to grant notional benefits of service in favour of the petitioner such as fixation of pay with all increment, seniority etc. and effect such notional fixation of pay on all consequential service benefits with effect from the date of provisional approval of panel i.e. 17th June, 2015.

4. The petitioner contends that pursuant to an advertisement dated 23rd April, 2010 of District Primary School Council, North 24 Parganas *(in short 'DPSC')* for recruitment of primary teachers, the petitioner submitted application in order to participate in the said recruitment

process. Subsequent thereto, petitioner appeared in the written examination conducted by the concerned DPSC. However, since certain irregularities were detected in the examination procedure, the written examination was cancelled *vide* Order No.255-SSE/12/ES/P10M-141/2010 (Pt) dated 21st June, 2012 of Principal Secretary to the Government of West Bengal, School Education Department and direction was issued for conducting the examination *de novo*. As per the said notification, *de novo* examination was conducted. The petitioner appeared in the *de novo* written examination and on being successful was called for interview. Though the panel was provisionally approved on 17th June, 2015, however, the DPSC failed to publish the panel and consequently issue appointment letters to the successful candidates on a misconceived plea of judicial restraint despite there being no subsisting order of stay. Several candidates being aggrieved by such action of the DPSC approached this Hon'ble Court by filing writ petitions and ultimately those writ petitions were considered including the writ petition filed by the present petitioner being WPA 15128 of 2017 and the Coordinate Bench on 8th January, 2021 directed DPSC, North 24 Parganas and DPSC, Malda to publish panels as provisionally approved *vide* Memo dated 11th June, 2015/17th June, 2015 in their respective websites within a period of two weeks from the date of communication of the order. Pursuant to such order, the panel of successful candidates were finally published on 10th February, 2021 and appointment was

given to the petitioner in the month of September, 2021. Owing to such illegal and arbitrary action of respondent authorities, the appointment of the petitioner was given belatedly. Such inordinate delay in giving appointment is solely attributable to the respondents. The petitioner for such reason has lost considerable period of service. Hence this writ petition seeking for notional benefit from the date of provisional approval of the panel i.e. 17th June, 2015.

5. Mr. Ratul Biswas, learned advocate appearing for the petitioner submits that the petitioner on being successful in the recruitment process of 2009 was provisionally empanelled for appointment on 17th June, 2015. Upon direction issued in *Nihar Biswas & Ors. versus State of West Bengal & Others (In Re: WPA 15128 of 2017)* the panel was published on 10th February, 2021. Ultimately appointment letter was issued on 21st September, 2021 and petitioner joined on 30th September, 2021. In *Uttam Samadder -versus- The State of West Bengal & ors. (In re: WPA 4043 of 2026),* the petitioner therein has been granted notional benefit from provisional empanelment. Being similarly circumstanced, the petitioner seeks similar benefit.

6. Despite service the State is unrepresented.

7. Ms. Anita Kundu, learned Advocate who usually appears on behalf of the State-respondents is requested to appear in this matter with junior of his choice. Let their appointment be regularised by the competent authority.

8. Learned Advocate for the petitioner is directed to hand over copy of the writ petition along with its annexures upon learned Advocate for the State.

9. Learned Advocates for the State concedes to the fact that the petitioner is similarly circumstanced as of petitioner in *Uttam Samadder (supra).*

10. In *Uttam Samadder (supra)* upon hearing the learned Advocates for the respective parties, this Court was of the opinion that the petitioner therein was entitled to notional benefit on and from June, 2015 on the ground that delay in appointment was solely attributable to the respondent authorities. Undeniably, the petitioner is similarly circumstanced as of the petitioner in *WPA 4043 of 2026.*

11. In the above conspectus, the concerned respondents authorities are directed as follows:

    (i) To fix the pay of the petitioner granting notional benefits from June, 2015.

    (ii) On upward fixation of pay of the petitioner by granting notional benefits, payment shall be made from the date of appointment of the petitioner. If any increment has been given to the teacher who joined at a prior date till September, 2021, the same shall be made available to the petitioner prospectively from the date of his joining. The salary slip and the pay scale of the petitioner shall be revised accordingly.

    (iii) It is clarified that the petitioner will not be entitled to monetary benefits from June, 2015.

(iv) The petitioner shall also be entitled to the notional increments and the length of his service shall be calculated from June, 2015.

(v) Arrears, if any, from September, 2021 till date shall be paid to the petitioner.

12. Respondent no.3, Commissioner of School Education is directed to pass formal order on completion of aforesaid exercise within a period of six weeks from the date of communication of this order.

13. Learned advocate for the petitioner is directed to communicate this order to respondent no.3, Commissioner of School Education, Government of West Bengal and respondent no.5, District Primary School Council, North 24-Parganas, for necessary compliance.

14. With the above direction, the writ petition being **WPA 5853 of 2026** stands disposed of.

15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

16. Interim order, if any, stands vacated.

17. All connected applications, if any, stand disposed of.

18. There shall be no order as to costs.

19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)