

WPA 9479 of 2024

**Dr. Shyamalendu Bagchi
Vs.
State of West Bengal & Ors.**

Mr. Arijit Dey ...for the petitioner.

Mr. D. N. Ray
Mr. Madhu Jana
Ms. Puja Sonkar ...for the State.

Mr. Debapriya Gupta
Mr. Moni Shankar Sengupta ...for respondent no.7.

Being aggrieved by the pay scale offered to him, the petitioner who is the a retired medical officer employed under the Dakshin Dinajpur Zilla Parishad seeks higher pay scale attached to the post alongwith yearly increments and other consequential benefits.

He filed a writ petition before this Court seeking such relief being WP 21166 (W) of 2010. By an order passed on 3rd September, 2012 a co-ordinate Bench of this Court disposed of the writ petition with liberty to the writ petitioner to file a comprehensive representation before the Principal Secretary, Department of Panchayat and Rural Development. The Principal Secretary was directed to proceed with the prayer of the petitioner in accordance with law upon granting reasonable opportunity of hearing to him and the authorized representative of the Zilla Parishad.

In compliance with the said order, the Principal Secretary, Panchayat and Rural Development Department

took up the issue for consideration and by an order passed on 21st December, 2012 held as hereunder:

“It is worth noting that merits in the matter of Dr. Neogi and the writ petitioner are not comparable as they were not similarly placed as far as academic qualification is concerned. Dr. Bagchi had obtained a degree of Bachelor in Indo Allopathy Medicine whereas Dr. Neogi obtained a degree as bachelor of Homeopathic Medicine in April 1961 from Jahangir Homeopathik Medical College, East Pakistan, registered by Government. So it was very obvious that disparity had to arise & Dr. Bagchi was rightly placed in the "For others" category for the purpose of enhancement of pay scale as per ROPA' 1981 & he got the benefit of enhanced scale of pay of Rs. 280-617/-corresponding Rs. 200-350/- which he was getting earlier. Dr. Neogi got the enhanced scale of Rs 440-1170/- which was the scale earmarked "For LMF" as he possessed requisite qualification and obtained bachelor degree from a registered government college. So there was clearly a policy shift in the recommendation of ROPA' 1981 as far as Medical Officer of Zilla Parishad are concerned in ROPA' 1981, where enhancement of pay scale was done on the basis of academic qualification and seven slabs of pay scale existing before ROPA' 1981 were merged and brought down to three broad slabs of enhanced pay scale, those being for 'M.B.B.S', for 'LMF' & for 'Others'.

ORDER

Hence I order that even though the petitioner is not eligible for the desired relief he has been asking for, but as he has rendered more than 32 years of service & is due to retire on superannuation in May 2013, the matter be referred to the Finance Department for considered views on humanitarian ground, but without any arrear benefits. My office will put up the proposal accordingly.”

In other words, the Government decided that the writ petitioner had a degree as Bachelor of Indo Allopathy Medicine whereas Dr. Neogi had a degree as Bachelor of Homoeopathic Medicine. The petitioner was placed under the category “For others” whereas Dr. Neogi was placed under the category “For LMF”. The category of LMF carried

a higher scale of pay which was granted to Dr. Neogi and not to the petitioner for reasons recorded in the order impugned.

By a letter issued on 13th July, 2016, the Special Secretary to the Government of West Bengal requested the Director of Central Council for Homoeopathy presently known as the National Council for Homoeopathy for confirmation as to whether the degree of Bachelor of Homoeopathic Medicine was equivalent to LMF degree or not.

In the report submitted by the President, Homoeopathy Education Board, it is stated that LMF degree is not a recognized homoeopathic qualification included in the 2nd Schedule to the Homoeopathy Central Council Act, 1973.

By the order impugned, Dr. Neogi has been included under the category “For LMF” upon consideration of his degree as Bachelor of Homoeopathic Medicine which is apparently contrary to the observation of the President, Homoeopathy Education Board in the report. The petitioner has been discriminated from Dr. Neogi insofar as the benefits are concerned primarily on the ground that Dr. Neogi falls under the category “For LMF” and the petitioner falls under the category “For others”.

In view of the observation made in the report submitted by the added respondent, the concerned authority being the Principal Secretary, Panchayat and

Rural Development Department, Government of West Bengal is required to revisit the issue in the light of the observation made in the report.

Accordingly, the order impugned dated 21st December, 2012 passed by the Principal Secretary, Panchayat and Rural Development Department, Government of West Bengal is quashed/set aside.

The Principal Secretary, Panchayat and Rural Development Department, being the 3rd respondent herein shall revisit the issue in the light of the observation made in this order as well as the report submitted by the added respondent upon granting reasonable opportunity of hearing to all concerned including the petitioner/his authorized representative and take a reasoned decision in this regard within eight weeks from the date of communication of this order.

The decision taken by him shall be communicated to the petitioner within a week therefrom.

The writ petition is disposed of accordingly.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)