

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 10593 of 2024

**Basudev Das
-versus-
The State of West Bengal & Ors.**

**Mr. Sakti Pada Jana,
Ms. Sudipta Pramanik.
...For the Petitioner**

**Mr. Bhaskar Prasad Vaisya, Ld. AGP,
Ms. Ujani Pal (Samanta).
... for the State**

1. The petitioner seeks higher scale of pay on account of enhancing his educational qualification. He was granted permission by the District Inspector of Schools, Secondary Education, Howrah on 7th February, 2013 for joining the post graduate degree course for enhancing his qualification for the session 2012-2014.
2. The petitioner enrolled himself with the University of Burdwan for the session 2012-2014 and the enrolment card of the petitioner is annexed at page 20 of the writ petition.
3. By a communicating memo dated 15th March, 2013, this school was intimated that all untrained upper

primary teachers should undergo the teachers' training (B.Ed course) through ODL mode.

4. The petitioner, accordingly, left the post graduate course unfinished midway and had to take admission in the B.Ed course. On conclusion of the B.Ed course in March 2015, the petitioner once again enrolled himself in the post graduate course. The Managing Committee of the School took a resolution to permit the petitioner to pursue post graduate course for the session 2015-2017.
5. The petitioner appeared in the annual examination of the post graduation course in the year 2017. Certificate was issued in his favour by the university on 20th June, 2019.
6. The prayer of the petitioner seeking higher scale of pay stood rejected by the District Inspector of Schools (S.E.), Howrah on 15th March, 2024 on the ground that the petitioner violated the permission for completing post graduate course in the session 2012-2014 but completed the course in the year 2015-2017.
7. Learned counsel for the petitioner submits that the petitioner has disclosed the reason for not completing the post graduate course in the session 2012-2014 despite getting enrolled in the said session. The school also adopted resolution in favour

of the petitioner permitting him to conclude the post graduate course in the session 2015-2017.

8. It has been submitted that on the day the petitioner got himself admitted in the post graduate course, the West Bengal Schools (Control & Expenditure) (Amendment) Act, 2016 was not in force. The Amendment Act cannot be given a retrospective effect to disallow the claim of the petitioner seeking higher scale of pay.
9. Reliance has also been placed on the judgment delivered by the Court in the matter of ***Utpal Kanti Karan vs. State of West Bengal & Ors.*** reported in ***2024 SCC Online Cal 1274*** paragraph 272 wherein the Court inter alia held that financial benefits upon acquiring higher qualification are required to be considered in accordance with rules existing when an application seeking permission for pursuing higher education and recommendation of the Managing Committee is made. The rights of the parties are required to be decided on the basis of the Government order and circulars existing on that date.
10. Learned counsel representing the State respondents opposes the prayer of the petitioner. It has been submitted that though permission was granted to the petitioner for getting admitted in the post graduate course in the session 2012-2014, he

failed to complete the same within the permitted session.

11. By the time the petitioner completed the post graduate course, the Amendment Act of 2016 came into force with effect from 14th September, 2016. The petitioner, accordingly, cannot be allowed higher scale of pay. Prayer has been made to dismiss the writ petition.

12. I have heard and considered the submissions made on behalf of both the parties. Admittedly, in the instant case, permission was granted to the petitioner for pursuing post graduate course in the session 2012-2014. The petitioner did, actually, enroll himself in the said session but because of the notice of the State requiring all untrained teachers to undergo the B.Ed. course, the petitioner was compelled to discontinue the post graduate course and joined the B.Ed. course for obtaining the training.

13. Immediately upon completing the training in March 2015, the petitioner again enrolled himself in the post graduate course in the session 2015-2017. The petitioner intimated the School Managing Committee about his intension to pursue the post-graduation course. A resolution was adopted by the Committee permitting him to join the said course which ended in 2017. Certificate for the degree

Master of Science was issued by the university in June 2019.

14. The Amendment Act of 2016 mentions that every teacher appointed for classes XI and XII, shall be entitled to draw pay meant for post graduate qualification and shall not be entitled to claim any additional increment or higher scale of pay for any qualification other than the minimum qualification specified for such post.
15. In the instant case, the petitioner was not appointed for classes XI and XII. He was appointed to teach in the secondary section of a high school. The Amendment Act, 2016 cannot be made applicable in case of the petitioner as he was not appointed in classes XI and XII and said Act was not in force on the day the petitioner got himself admitted in the M.Sc. course.
16. The District Inspector of Schools had already accorded permission to the petitioner for pursuing the post graduate qualification and the petitioner has sufficient reasons to show as to why, despite taking enrolment in the session 2012-2014, he could not conclude the same and got himself re-admitted in the session 2015-2017 relying on the resolution of the Managing Committee of the School.

17. Accordingly, the benefit of granting higher scale of pay ought not to be disallowed by the authority, specifically relying on the Amendment Act of 2016.
18. This Court vide judgment dated 9th May, 2024 in the matter of **WPA 5066 of 2017 (Biswajit Maiti vs. The State of West Bengal & Ors.)** held that the moment the incumbent applied before the school authority for acquiring higher qualification, the obligation of the incumbent came to an end.
19. In view of the above, the impugned rejection dated 15th March, 2024 stands set aside.
20. The District Inspector of Schools is directed to reconsider the prayer of the petitioner for grant of higher scale of pay without referring to the Amendment Act of 2016.
21. A decision shall be taken in the matter at the earliest but positively within eight weeks from the date of communication of this order.
22. The writ petition is disposed of.
23. Urgent certified Photostat copy of this order, if applied for, be given to the parties on compliance of requisite formalities.

(Amrita Sinha, J.)