05.10.2026
Sl. No.2048
Ct.-14
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 13444 of 2026

Tapas Kumar Ghosh & ors.
-Vs-
State of West Bengal & Ors.

Mr. Sudipta Dasgupta
Mr. Ritwik Basu
.... For the petitioners.

Mr. Shaunak Ghosh
Ms. Anyasha Das
... for the State

1. Since the petitioners have separate, distinct and independent cause of action, the writ petition is taken up for consideration of prayer of petitioner no.1 only. So far as the other petitioners (petitioner nos.2-108) are concerned, it is left open to them to file separate writ petition praying for notional benefit on their selfsame independent cause of action.

2. By the present writ petition the petitioner no.1 seeks direction upon the respondent authorities to grant notional benefits of service in favour of the petitioner no.1 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.

3. The petitioner no.1 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 no.1 submitted application in order to participate in the said recruitment process. Subsequent thereto, petitioner no.1 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 no.1 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 no.1 in the month of September, 2021. Owing to such illegal and arbitrary action of respondent authorities, the appointment of the petitioner no.1 was given belatedly. Such inordinate delay in giving appointment is solely attributable to the respondents. The petitioner no.1 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.

4. Mr. Sudipta Dasgupta, learned advocate appearing for the petitioner no.1 submits that the petitioner no.1 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 no.1 joined on 1st October, 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 no.1 seeks similar benefit.

5. Though District Primary School Council, North 24-Parganas was represented on the last occasion i.e. 24th September, 2026, however, today none appears for the Council.

6. Learned Advocates for the State concedes to the fact that the petitioner no.1 is similarly circumstanced as of petitioner in *Uttam Samadder (supra).*

7. 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 no.1 is similarly circumstanced as of the petitioner in *WPA 4043 of 2026.*

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

(i) To fix the pay of the petitioner no.1 granting notional benefits from June, 2015.

(ii) On upward fixation of pay of the petitioner no.1 by granting notional benefits, payment shall be made from the date of appointment of the petitioner no.1. If any increment has been given to the teacher who joined at a prior date till October, 2021, the same shall be made available to the petitioner no.1 prospectively from the date of his joining. The salary slip and the pay scale of the petitioner no.1 shall be revised accordingly.

(iii) It is clarified that the petitioner no.1 will not be entitled to monetary benefits from June, 2015.

(iv) The petitioner no.1 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 October, 2021 till date shall be paid to the petitioner no.1.

9. 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.

10. Learned advocate for the petitioner no.1 is directed to communicate this order to respondent no.3, Commissioner of School Education, Government of West Bengal and respondent no.4, District Primary School Council, North 24-Parganas, for necessary compliance.

11. With the above direction, the writ petition being **WPA 13444 of 2026** stands disposed of.

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

13. Interim order, if any, stands vacated.

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

15. There shall be no order as to costs.

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

17. 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.)