

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Prasenjit Biswas

FMA 1162 of 2025

The State of West Bengal & Ors.

Vs.

Arupratan Das & Ors.

For the Appellants/State : Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee.

For the Respondent Nos. 1 : Mr. Biswarup Biswas,
Ms. Nipur Choudhuri.

Judgment on : February 2, 2026

Madhuresh Prasad, J.:

1. The Appellants/State was the respondent in the writ proceeding. The Hon'ble Single Judge allowed the writ petition by issuing a direction to the District Inspector of Schools (SE), Barrackpore, respondent no.3 to grant the petitioner benefit of higher scale of pay in recognition of improvement of his qualification (post graduate degree) in the subject relevant to his appointment. Consequential direction has been given to refix pay scale accordingly and to pay him arrears difference of pay. The order of the Hon'ble Single Judge dated 11.04.2025 has been assailed by way of the present intra court appeal.
2. Heard the submissions advanced on behalf of the parties.

3. The State's case in the appeal is that petitioners is not entitled to benefit of the post graduate scale for Librarian, since at the time of his initial appointment in the year 2000 he was not having post graduate in the concerned subject (Library Science). He acquired the higher qualification of post graduate in the concerned subject much later, i.e. on 07.12.2007.
4. It is the case of the State in the affidavit-in-opposition filed in the writ proceeding that prior to acquisition of such higher qualification the West Bengal Schools (Control of Expenditure) Act, 2005 ("2005 Act" for short) was enforced with effect from 19.08.2005 wherein there is no provision for granting higher scale of pay to Librarians in acknowledgment of enhancement of their qualification.
5. The learned State counsel in addition submitted that the Librarians are not teaching staff, and therefore also, they were not entitled to higher scale.
6. The learned advocate representing the writ petitioners/respondents has taken us through the provisions contained in 1999 ROPA Rules and 2009 ROPA Rules. He has drawn attention of the Court towards Rule 12(3) of the 1999 ROPA Rules, which reads:

"12. Career Advancement Scheme and Related Issues

(3) All teachers, including physical education teachers and librarians of secondary schools who have improved/will improve their qualifications who were appointed with higher qualification in the subjects or group relevant to their teaching/appointment shall get higher scale of pay appropriate to their qualifications with effect from the 1st January, 1996 or the date improving qualifications whichever is later."

7. He has further submitted that to give effect to this Clause, 1999 ROPA Rules contained an annexure wherein the admissible higher scale based on the degree of the incumbent on the post of Librarian is specified at Serial 13 and 14, in the

following terms:

13. Librarian Master's degree holder with recognised Diploma in Library Science.	1420-3130 With higher initial start at Rs. 1465/-	4650-10175
14. Graduate with recognized Diploma in Library Science.	1390-2970	4500-9700

8. The provisions contained in 1999 ROPA Rules were applicable till 01.04.2008 that is the date of coming into force of actual benefits under the 2009 ROPA Rules. It is during this period the petitioner acquired the higher qualification on 07.12.2007. The petitioner, therefore, was entitled to grant of benefit under the annexure to the 1990 Rules as specified in Serial 13, extracted above. The writ petitioners acquired a right to be placed in the higher post graduate scale with effect from 07.12.2007 and, therefore, would be entitled to the corresponding/revised scale for this post graduate scale of Librarians specified in the 2009 ROPA Rules.
9. Insofar as the actual consequential dues the learned counsel fairly submitted that the benefit of the post graduate scale is to be paid to him from 07.12.2007, i.e. the date of acquisition of higher qualification; and revision of that scale with effect from the date of actual benefits as contemplated under the 2009 ROPA Rules, that is with effect from 01.04.2009.
10. Another issue which arises for consideration is whether the Control of Expenditure Act, 2005 comes in the way of grant of such benefit to the writ petitioners. Insofar as the 2005 Act, the learned advocate for the appellant/respondent relied on Section 14 of the Act to submit that there is no provision in this Act for payment of the post graduate scale to Librarians.

11. The learned advocate for the writ petitioners/respondents, however, submits that the writ petitioner is not claiming any benefit under this 2005 Act. The benefit that he is claiming is under the 1999 ROPA Rules which accrued to him by virtue of a right arising out of the 1999 Rules. The 2005 Act does not in any way interfere, either, explicitly or by inference with the benefits granted under the 1999 ROPA Rules or the 2009 ROPA Rules.
12. We have considered the submission of the parties. We find that no grounds have been urged for depriving the writ petitioner the benefit of higher scale of pay in recognition of the fact that he acquired the higher qualification, i.e. post graduate degree in library science on 07.12.2007. The fact that he acquired the post graduate degree on 07.12.2007, in the relevant subject is not in dispute. Admissibility of the consequential benefits as a result thereof, is the matter in issue in the present proceeding.
13. Upon perusal of 1999 ROPA Rules extracted above and the annexure to the rules, which also has been extracted above, we find that admissibility of higher scale in recognition of the petitioner's acquisition of higher qualification, post graduate degree is due to the petitioner, but with effect from the date on which he acquired the degree on 07.12.2007. Such conclusion is founded on a plain reading of the Rule 12(3) of the 1999 ROPA Rules along with annexure, extracted above. We have also examined the amendment of the Rule under Memorandum dated 13.07.1999. Sub para (3) of paragraph 12 of the 1999 ROPA Rules has been amended as follows:

"....."3. All teachers, including Physical Education teachers and Librarians (emphasis ours) of Secondary Schools who have improved/will improve their qualification or who were appointed with

higher qualification in the subjects or group relevant to their teaching/appointment shall get higher scale of pay appropriate to their qualifications, with effect from the 1st January, 1996 or the date of improving qualification, whichever is later, provided that such higher qualified teachers in the relevant subjects or group is justified as per approved staff pattern of that school. If such teacher is appointed through West Bengal School Service Commission, his/her pay will be fixed in the scale of pay as per his/her qualification mentioned by the West Bengal School Commission.....”

14. A plain reading of the amended provision also leaves no scope for ambiguity regarding entitlement of the petitioner (librarian) to grant of higher scale upon improvement of his qualification by acquiring the post graduate degree, with effect from the date of acquisition of the higher qualification (07.12.2007). The amendment does not exclude librarians. In fact from a plain reading of the above quoted amended provision, it is more than obvious that librarians are included within teachers and form a common class for the purpose of grant of the benefit of higher scale for improving qualification in the concerned subject.
15. The only issue thus, remaining is an objection raised by the learned State Counsel relying upon the 2005, Act. We find no force in such submission. The petitioner's entitlement to grant of higher scale of pay accrued under the 1999 ROPA Rules. The 2005 Act is a later development. We further find the submission advanced by the learned State Counsel, based on averments made in the affidavit in opposition, that there is no provision for granting higher scale of pay to librarians on enhancement of qualification in the 2005 Act, of no consequence and devoid of any substance. Grant of benefit of higher scale of pay on acquisition of higher qualification is not dependent on or claimed on the basis

of any provision in the 2005, Act. Such benefit on higher Scale of pay is founded on the ROPA Rules, which we have noted above. Therefore, the stand of the State that there is no provision for granting higher scale in the 2005 Act, is of no avail.

16. The reliance placed on Section 14 of the Act also does not fortify the submission of the State that the petitioner is not entitled to higher scale. Section 14 including Section 14(1) relied upon of the state counsel reads:

“14(1) Every teacher of school shall, if appointed in the post of Undergraduate teacher category, be entitled to draw pay in the scale of pay in which he is appointed and shall not be entitled to claim any additional increment or higher scale of pay for acquiring any qualification other than the “qualification specified for such post.”

(2) Every teacher of a school shall, if appointed in the post of Graduate teacher category, be entitled to draw pay in the scale of pay in which he is appointed and shall not be entitled to claim any additional increment or higher scale of pay for acquiring any qualification other than the qualifications specified for such post.

(3) Every teacher of a school shall, if appointed in the Honours Graduate or Post-Graduate teacher category, be entitled to draw pay of Post-graduate teacher category, upon acquiring Post-graduate degree, in the manner as may be specified by order.”

17. A plain reading of this provision reveals the legislative intent. According to this section an additional increment or higher scale can only be claimed for acquiring any “*qualifications specified for such post*” and “*in the manner as may be specified by order*”. The provisions of the 1999 ROPA Rules, as amended, is, therefore, in harmony with Section 14 of the Act.

18. The provisions in the ROPA Rules contemplated grant of higher scale for

acquisition of higher qualification in the relevant subject, in the present case Masters in the Library Science. Section 14 therefore, does not in any way operate against the 1999 ROPA Rules, insofar as grant of higher scale in recognition of acquisition of higher degree is concerned. The learned State Counsel has not been able to point out any provision in the 2005 Act which can be read, or understood to impose a bar on grant of higher scale in recognition of higher qualification under the above noted ROPA Rules.

19. We also consider it worth taking note of Section 16 of the Act, which reads as follows:

“16. Notwithstanding anything contained elsewhere in this Act, the terms and conditions of service of a teacher or a non-teaching staff in the employment of a school immediately before the commencement of this Act, shall not be varied to his disadvantage in so far as such terms and conditions relate to the appointment of such teachers and non-teaching staff to the posts held by them immediately before the commencement of this Act.”

20. The Act itself therefore, provides that the terms and conditions of service shall not be varied to the petitioner's disadvantage. The prevalent terms and conditions providing for grant of higher scale of pay on acquisition of higher qualification in the concerned subject, which is in existence since prior to coming into force of the 2005 Act therefore, cannot be varied to the disadvantage of the teaching or non teaching staff of any school.

21. We therefore, find no reason to interfere with the directions issued by the Hon'ble Single Judge in the order dated 11.04.2025, under appeal.

22. However, in view of the fact that the appeal is now being disposed of, we consider it necessary to observe that the time limit of 8 weeks specified by the

Hon'ble Single Judge is modified to be read as starting from the date of receipt/communication of this order.

23. The appeal is dismissed in these terms.

24. Connected application(s), if any, stands disposed of. Interim order, if any, stands vacated.

25. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)