IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Rai Chattopadhyay

WPA 11041 of 2016

Tapan Kumar Das
Vs.
State of West Bengal & Ors.

For the Petitioner	: Mr. Subir Sanyal, ld. Sr. Adv. : Ms. Sumouli Sarkar : Mr. S. Mukherjee
For the State	: Mr. Lokeshnath Chatterjee : Ms. Marry Dutta : Mr. Shounak Ghosh : Ms. Riya Ballav
Heard on	**: 14.09.2026**
Judgment on	**: 26.11.2026**
Uploaded on	**: 26.11.2026**

Rai Chattopadhyay, J. :-

1. The writ petitioner seeks that he should be treated as a Master Degree qualified in the subject 'Agriculture' (M.Sc in Agriculture) for the purposes of recruitment, appointment and service as an assistant teacher in Work Education Group and be granted with post graduate scale of pay commensurate to that instead of as a graduate category teacher. Hence, he has filed the instant writ petition for an appropriate order.

2. Let the factual background leading to filing of this case may be stated in short, as herein bellow. The petitioner qualified M.Sc examination in the year 1997. He has also qualified at the National Eligibility Test held in October 1997, in the subject 'Agricultural Extension' and was certified to be eligible for Lecturership/Assistant Professorship in the State Agricultural Universities.

3. The petitioner appeared in selection for the post of assistant teacher in Work Education and being qualified, was recommended for appointment on March 9, 2001, by the West Bengal Regional School Service Commission, Eastern Region, Burdwan. Consequently, he was appointed in the respondent No.5 school as an assistant teacher in Work Education subject vide the letter dated March 17, 2001. He joined in service on June 18, 2001. His appointment has been approved at a graduate category pay scale, mentioning his qualification as M.Sc. in Agriculture.

4. In response to a subsequent advertisement No.03/AT/07 dated October 4, 2007, the petitioner again appeared in the selections and succeeded. He was again recommended as a "Pass Grad. with Agriculture", vide letter dated June 13, 2009. He got appointment in Bolpur Vivekananda Vidyapith and joined there. A letter of approval dated September 16, 2009 was issued treating him as a 'B.Sc (Ag) Pass Graduate as per recommendation of SSC', and allowing him Pass Graduate scale of pay as per ROPA 2009.

5. A further important development happened when pursuant to the petitioner's prayer for higher pay scale vide the letter dated March 20, 2014 and recommendation of the school Managing Committee to that effect the respondent/District

Inspector of Schools, Secondary Education, Birbhum, (in short "the DI"), allowed him financial benefit as per Rules, treating his qualification as "B.Sc.(Ag.) Equivalent of Hons".

6. The writ petitioner has claimed in the instant writ petition that he may be treated as and approved with Master Degree qualification and be granted with the post graduate scale of pay from the date of inception of his service. Mr. Sanyal learned senior advocate has represented the writ petitioner in this case. He has submitted that in the subject Agriculture, a person would always be granted an Honours Degree and there is no scope to provide a Degree other than that, to a successful incumbent in the subject Agriculture, as per the prevalent system. Therefore, according to Mr. Sanyal, learned senior advocate, to consider the petitioner as a graduate category teacher and to allow him only the graduate category pay scale would not only be illegal but irrational and arbitrary. He has submitted that category of post of the writ petitioner as a 'pass graduate' is unjustified and extraneous consideration in denying post graduate scale of pay to him, which is the bench mark for initial appointment only and cannot take away the benefit of higher scale on the basis of higher qualification of the teacher. It is stated that the petitioner applied as a M.Sc. candidate and has been subjected to same process including same set of questions, similarly with the Honours Graduate candidates. Hence, it is submitted that the petitioner should be made eligible for higher scale of pay since the date of his initial employment as per his service record, that is, June 18, 2001.

7. Mr. Sanyal, learned senior counsel has referred to a Division Bench judgment of this Court in ***State of West Bengal &***

Others versus Sauvik Ghosh & Others (2009) 1 Cal LJ 173, in support of his argument that the School Service Commission cannot omit to record educational qualification disclosed by a candidate and while recommending a candidate a Honours Graduate cannot be shown as a pass graduate; that presumption of correctness of the recommended qualification is rebuttable and that qualification recommended is only for the purpose of initial pay fixation.

8. The other Division Bench judgment of this Court relied on by Mr. Sanyal, learned senior advocate, is that in ***State of West Bengal and Another versus Bakul Kumar Sing and Others 2024 SCC Online Cal 11895***, in which with reference to the Special Bench judgment of this Court [Utpal Kanti Karan versus State of West Bengal 2024 SCC Online Cal 2274], the Division Bench laid down that the West Bengal Schools (Control of Expenditure) Act 2005 does not have any retrospective effect in application. Mr. Sanyal has referred to a judgment of this Court in ***Prasanta Bera versus The State of West Bengal & Others dated June 13, 2025 in WPA No. 25229 of 2013***.

9. The State is represented by Mr. Chatterjee, learned advocate. He argues that the petitioner's prayer is baseless. He has largely relied on the vacancy notification dated October 4, 2007, to state that for the post of assistant teacher in the subject 'Work Education' the essential qualification was a Bachelor's Degree in the subject Agriculture, amongst others. Hence therefore, the petitioner's recommendation also was made as a 'pass graduate' candidate and his service has been approved at a pay scale commensurate to such category of

teacher. He has categorically relied on the West Bengal Schools (Control of Expenditure) Act 2005 and the subsequent notification No.593-SE(B) dated November 27, 2007. He submits that according to provisions thereunder the petitioner would not be entitled to any other scale of pay than has been recommended by the School Service Commission. According to Mr. Chatterjee, learned advocate, the present writ petition bears no merit and is liable to be dismissed.

10. So far applicability of the 2005 Act in the present petitioner's case is concerned, it is now well settled that the said enactment has no retrospective applicability. According to the official records, the writ petitioner's appointment was in the year 2001, on June 18, 2001 precisely. The respondent appears to have omitted the first part of his employment and considered his case as if the petitioner was an appointee of 2007, which is not a fact of the case. The Special Bench and following that subsequently the Division Bench of this Court have upheld this proposition about no retrospectivity of the 2005 Act (as discussed earlier). Hence, in the present writ petition, the Act of 2005 shall have no manner of application.

11. The peculiar fact of this case is that the petitioner is considered in a category and pay scale, which is not in existence. An aspirant in the subject Agriculture, has always to be granted with a Master's Degree and there is no dispute in the instant writ petition, with regard to that fact. It is therefore an admitted fact that the writ petitioner is qualified with "M.Sc.(Ag)" Degree. He applies and qualifies in selection as a candidate with "M.Sc.(Ag)" Degree. Now comes the dichotomy to play its part. It is on record that vacancy notification was published for the post of an assistant teacher

in the subject 'Work Education', requiring essential qualification for a candidate to be holding Bachelor's Degree in the subject Agriculture, amongst others. Perhaps that has been the reason for the recommending authority to recommend the petitioner's name as a pass graduate candidate in 2007. It is worth mentioning that in 2001, at the time of initial appointment of the writ petitioner, the recommending authority did not even mention his category in the recommendation letter. Be that as it may, pursuant to the recommendation, service of the writ petitioner was approved as a pass graduate category teacher and pay scale commensurate to that was paid to him.

12. It however, remains to be a relevant issue whether the recommendation of the School Service Commission is sacrosanct or the presumption of correctness of such recommendation is rebuttable. The Division Bench of this Court has categorically answered this question and this Court is respectfully bound and guided by the same. In ***Sauvik Ghosh's case (supra)*** the Court holds in this regard as follows:

> ***"33. The presumption that the educational qualifications recorded by the School Service Commission is correct, is, however, rebuttable. If a teacher can satisfy the concerned authorities, that his her actual educational qualifications in the relevant teaching subject were higher than those recorded by the School Service Commission in its recommendation, the teacher would have to be granted the scale of pay pertaining to the higher qualification."***

13. In the present case it is an admitted position that the petitioner is qualified with a M.Sc. Degree in Agriculture. This appears to be a fit case where it can be held that presumption of correctness of the qualification and category

of the petitioner mentioned in the recommendation letter is rebutted with specific material.

14. Also, that in view of qualification of the petitioner and the fact that a Bachelor's Degree never exists in the subject Agriculture, the School Service Commission could not have recommended the petitioner as a pass graduate candidate. Essential qualification mentioned in the vacancy notification necessarily means the essential minimum qualification required for a candidate to apply for the post and it cannot be considered as the uppermost threshold or the only qualification prescribed. The law is well settled that such consideration violates the principles of equality as enshrined under Article 14 of the Constitution of India.

15. Again a question arises whether the qualification disclosed by the petitioner could have been avoided or omitted by the recommending authority. The Division Bench answers in ***Sauvik Ghosh's case (supra)***, this question in negative, in the manner as follows:

> ***"31. The School Service Commission cannot, however, omit to record educational qualifications as disclosed by a candidate. When the School Service Commission makes a recommendation the educational qualification of an Honours graduate can in no circumstances be shown as pass graduate. Nor can a post graduate be described as a graduate in any communication. If the educational qualifications are mentioned in the recommendation, the full educational qualifications as disclosed, would have to be mentioned, irrespective of the requirements of the teaching post."***

16. This Court finds that the School Service Commission could not have omitted to mention the qualification disclosed by the petitioner that is M.Sc. in Agriculture and mention him of such a category which actually did not exist. The natural consequence would have been to grant the pay scale to the

petitioner commensurate to the higher degree of his qualification. A teacher's category as recommended would never be static but depend on his actual qualification, either obtained prior or subsequent to appointment. The law is well settled that recommended category of the teacher is for the purpose of his initial pay fixation which has to be varied consequent upon change in qualification of the person. Similar is about wrong recording of the qualification and category of the teacher in the recommendation of the School Service Commission. A teacher would be entitled for pay as per declared qualification and applicable Rules. The Division Bench in ***Sauvik Ghosh's case (supra)*** lays down:

> ***"36. If, as argued on behalf of the State, the Government Order dated 13th July, 1999 were to mean, initial fixation would be on the basis of the educational qualifications mentioned in the recommendation of the School Service Commission, irrespective of whether the qualifications had correctly been recorded or not, and a teacher appointed on the recommendation of the School Service Commission would be bound by the qualification as mentioned in the recommendation for all time to come, and even on enhancement of qualification, the teacher would not be entitled to the higher scale of pay pertaining to qualification, only because the School Service Commission had mentioned a different qualification in its initial recommendation, the Government Order would have to be struck down as totally arbitrary, discriminatory and violative of Article 14 inter alia for the reasons elaborated hereinafter."***

17. Before proceeding further, it would be necessary to distinguish between a case where a teacher acquires a higher qualification after entering service and a case where such qualification was already possessed by the teacher at the time of his initial appointment. The present petitioner falls in the latter category, since he had acquired his M.Sc. degree in Agriculture in the year 1997, much prior to his appointment on June 18, 2001. It is also significant that the approval of his initial appointment recorded his M.Sc. qualification, although he was allowed the graduate category scale of pay.

Further, unlike the subsequent recommendation dated June 13, 2009, wherein the petitioner was expressly described as a Pass Graduate with Agriculture, the recommendation relating to his initial appointment in 2001 did not specify any such category. The distinction assumes significance because the subsequent description of the petitioner as a Pass Graduate cannot, by itself, be treated as conclusive of the nature and terms of his original appointment. The question, therefore, is whether the petitioner was actually selected and appointed in the Pass Graduate category or whether his disclosed postgraduate qualification was inadequately reflected at the stage of recommendation and initial fixation of pay.

18. The Full Bench in ***Utpal Kanti Karan (supra)*** has recognised that the entitlement of a teacher possessing a higher qualification prior to entering service has to be examined with reference to the Rules and Government Orders prevailing on the date of his appointment. At the same time, the Full Bench has held that a teacher entering service in the Pass Graduate category cannot claim a higher scale merely on the basis of possession of a higher qualification, irrespective of whether such qualification was acquired before or after appointment. The latter proposition, however, cannot be mechanically applied without first determining the actual category in which the teacher entered service. In the present case, the initial recommendation of 2001 did not expressly classify the petitioner as a Pass Graduate candidate, whereas his M.Sc. qualification was duly reflected in the approval of appointment. The subsequent recommendation of 2009, which expressly described him as a Pass Graduate candidate, cannot retrospectively determine the character of his initial

appointment in 2001. Accordingly, the petitioner's claim is required to be examined on the basis of the service conditions and the applicable pay rules governing his original appointment, rather than on the basis of a subsequent recruitment exercise.

19. The applicable provision in this regard is Clause 12(3) of ROPA 1999, which governed the petitioner's service conditions at the time of his initial appointment. The relevant provision may be quoted as herein bellow:

> ***"12.(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 of improving qualifications whichever is later."***

20. The entitlement contemplated under Clause 12(3) of ROPA 1999, has to be considered in conjunction with the relevance of the higher qualification to the subject or group in which the teacher was appointed, the approved staff pattern and the stipulations governing appointments made through the School Service Commission. In the instant case, the petitioner possessed an M.Sc. degree in Agriculture even before entering service, and Agriculture was also one of the subjects recognised in the relevant vacancy notification for appointment in the Work Education group. The authorities, having recorded the petitioner's postgraduate qualification in the approval of his initial appointment, were required to consider its effect under the prevailing pay rules instead of treating the mere description of the appointment as a graduate category appointment as conclusive of his financial

entitlement. The question is not whether possession of a higher qualification invariably entitles a teacher to a higher scale of pay, but whether the petitioner, having entered service with the requisite higher qualification, satisfies the conditions prescribed under the Rules for such financial benefit. The subsequent order of the District Inspector of Schools dated March 20, 2014, treating his B.Sc. (Agriculture) as equivalent to Honours for the purpose of financial benefit, is also a relevant subsequent development, though its precise scope cannot be equated with recognition of his postgraduate entitlement from the date of initial appointment.

21. The relevance of the petitioner's M.Sc. qualification in Agriculture to his appointment in the Work Education group also requires consideration. Significantly, the vacancy notification itself recognised a Bachelor's Degree in Agriculture as one of the prescribed essential qualifications for appointment to the post in question. This demonstrates that Agriculture was not an unrelated academic discipline but was expressly recognised by the recruiting authority as a relevant qualification for appointment in the Work Education group. The petitioner's M.Sc. degree in the same discipline, being a higher academic qualification than the minimum graduation qualification prescribed for the post, cannot be treated as an unrelated or extraneous qualification merely because the recruitment notification prescribed a Bachelor's Degree as the minimum eligibility criterion. The expression "subjects or groups relevant to their teaching/appointment" occurring in Clause 12(3) of ROPA 1999 must be construed with reference to the nature of the post and the qualifications

recognised by the recruiting authority for such appointment. The fact that Agriculture was expressly included amongst the eligible disciplines for recruitment in the Work Education group provides a substantial basis for holding that the petitioner's postgraduate qualification was in a subject relevant to his appointment. Nevertheless, such relevance must be considered together with the requirement under the amended Clause 12(3) that the higher-qualified teacher should be justified under the approved staff pattern of the school and, in the case of an appointment through the School Service Commission, that the qualification disclosed and recorded in the recommendation must be duly examined. In the present case, the approval of the petitioner's initial appointment expressly recorded his M.Sc. qualification. The absence of any specific categorisation in the original recommendation dated March 9, 2001 cannot, without further examination of the petitioner's application and the recommendation itself, be treated as an affirmative determination that he was selected in the Pass Graduate category. The authorities were, therefore, required to examine his actual disclosed qualification, the terms of the original recommendation and the approved staff pattern before determining his entitlement under the aforesaid provision. A mere reference to the minimum qualification prescribed in the vacancy notification cannot, by itself, conclude the question of his entitlement to the appropriate scale of pay under the governing Rules.

22. The subsequent appointment of the petitioner in 2009 must also be viewed in its proper factual and legal perspective. The present claim, as framed, is founded upon his original

appointment dated June 18, 2001, when the West Bengal Schools (Control of Expenditure) Act, 2005 had not come into operation. The subsequent selection and appointment cannot, without examination of their terms and legal effect, be permitted to displace or retrospectively alter the service rights, if any, which had accrued to the petitioner under the Rules governing his initial appointment. Equally, the respondents cannot rely upon the subsequent description of the petitioner as a Pass Graduate to defeat a claim arising out of an earlier appointment without establishing that such classification was also applicable to, and formed part of, the original appointment. The petitioner's entitlement must consequently be determined with reference to his qualification at the time of initial appointment, the contemporaneous recommendation and approval, and the applicable provisions of ROPA 1999. If, upon such consideration, the prescribed conditions for the postgraduate scale are found to have been fulfilled, denial of the corresponding financial benefit merely on the basis of an erroneous or incomplete recording of his qualification would be arbitrary and unsustainable in law.

23. On the basis of the discussion as made above, this Court finds grant of pass graduate category pay scale to the writ petition was not only erroneous and incoherent to the legal provisions but also unjustified, irrational and arbitrary. This is a fit case where the Court should intervene and pass remedial order. Hence, the writ petition should succeed.

24. The writ petition No. WPA 11041 of 2016 is allowed with the following directions: -

i. The petitioner is entitled for grant of Hons./post-graduate scale of pay commensurate to his educational qualification.

ii. The order of approval of the present petitioner dated September 16, 2009 be modified by issuance of a fresh order, recording the qualification of the petitioner as "B.Sc. (Ag.) Hons. Graduate" and scale of pay to be "Hons./post-graduate scale of pay" consequently the endorsement of pass-graduate qualification of the petitioner as mentioned in memo dated July 11, 2014 issued by the respondent No. 4 as well as the endorsement pass-graduate with Agriculture in the recommendation letter dated June 13, 2009 of the respondent No. 14 stands set aside.

iii. The petitioner shall be entitled and paid with Hons./post-graduate scale of pay from the date of his initial appointment that is, March 31, 2001.

iv. The respondent No. 4 shall take steps for immediate refixation of pay scale of the writ petitioner, within a period of four (04) weeks from the date of communication of this order.

v. The respondent No. 4 shall release the arrear amount of pay in terms of the revised pay scale to the petitioner, maximum within a period of three (03) months from the date of communication of this order.

25. With the directions as above, the instant writ petition No. WPA 11041 of 2016 is disposed of along with application pending, if any.

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

(Rai Chattopadhyay, J.)