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Court No.24
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15346 of 2026

Sudhanshu Dey
-versus
The State of West Bengal & Ors.

Mr. Gourav Das
... For the petitioner

Mr. Sanjit Singh
Mr. Dinesh Chandra Singh
... For the State

1. Affidavit of service filed in Court today is taken on record.

2. The reasoned order dated 13th May, 2026 passed by the District Inspector of Schools (Secondary Education), Barrackpore, North 24-Parganas rejecting the petitioner's prayer for grant of higher scale of pay is impugned in the instant writ petition.

3. The petitioner is a Physical Education Teacher. He joined the master degree course in the year 2005 and he was appointed as Pass Graduate Physical Education Teacher in April 2006. The petitioner prays for grant of higher scale of pay on enhancement of his educational qualification.

4. The District Inspector of Schools has rejected the prayer of the petitioner on the ground that as per Section 14(2) of the West Bengal Schools (Control of Expenditure) Act, 2005, the petitioner will not be entitled

to Post Graduate scale of pay as he was appointed under the Pass Graduate category on 20th February, 2004. As per the GO No.735-SE(S) dated 3rd June, 2002, the petitioner would not be entitled to receive the higher scale of pay.

5. Learned advocate for the petitioner submits that the petitioner was not appointed in the year 2004 as mentioned in the impugned order. The reasoning given by the DI is contrary to the orders passed by the courts from time to time.

6. Prayer has been made to set aside the impugned order and further directing the authority to accord higher scale of pay to the petitioner.

7. Learned advocate for the State defends the impugned order and submits that the petitioner will not be entitled to the higher scale of pay.

8. I have heard the submissions made on behalf of both the parties and perused the materials placed before the Court.

9. The issue as to whether the Physical Education teachers would be entitled to receive the higher scale of pay has been decided by the Court in **Prasanta Kanti Bose v. State of West Bengal** reported in **2026 (2) CHN (CAL) 164** wherein the Court specifically held that the issue as regards entitlement of post graduate scale of pay to teachers in Physical

Education and Work Education group has been considered in the judgment delivered in the matter of **Baishali Banerjee v. State of West Bengal & Ors.** reported in **2008 (2) CLJ (Cal) 472**.

10. The Court specifically held that in Physical Education, there is no distinction between pass and honours category and, as such, Physical Education teachers with master degree in Physical Education would be entitled to post graduate scale of pay notwithstanding the fact that post graduate degree in Physical Education was not necessary for appointment as Assistant Teacher in Physical Education.

11. The Hon'ble Larger Bench in the matter of **Utpal Kanti Karan & Ors. v. State of West Bengal & Ors.** reported in **2024 SCC OnLine Cal 1274** clearly laid down that if a teacher partially completed higher study before entering service, he would not be required to take further permission from the District Inspector of Schools.

12. Once an issue has been decided and the matter is referred back to the authority for taking a decision relying on the said judgment, then the authority ought to have taken steps in terms of the law laid down by the said judgment. The reason provided by the District Inspector of Schools to reject the prayer of the petitioner does not appear to be proper and clearly contrary to the law laid down by the Hon'ble Court.

13. In view of the above, the impugned order of the District Inspector of Schools (SE), Barrackpore, North 24-Parganas, dated 13th May, 2026 cannot be held to be maintainable in the eye of law. The same is liable to be set aside and is, accordingly, set aside.

14. The District Inspector of Schools (Secondary Education), Barrackpore, North 24-Parganas is directed to re-calculate the salary of the petitioner after providing the higher scale of pay taking into consideration his master degree qualification in Physical Education on and from the next date of publication of the master degree result, i.e., with effect from 4th October, 2008.

15. Steps shall be taken by the District Inspector of Schools in this regard at the earliest but positively within a period of twelve weeks from the date of communication of this order.

16. All arrear payment shall be cleared positively within a period of six months from the date of communication of this order.

17. The writ petition stands disposed of.

18. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

19. Certified server copy of this order, if applied for, be supplied to the parties on compliance of all requisite formalities.

(Amrita Sinha, J.)