IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Rai Chattopadhyay

WPA 20122 of 2021

Asok Kumar Das
Vs.
The State of West Bengal & Ors.

For the Petitioner : Mr. Sakti Pada Jana
: Ms. Sudipta Pramanik

For the State : Mr. Pinaki Dhole
: Mr. Avishek Prasad

Judgment on **: 13.11.2026**

Uploaded on **: 13.11.2026**

Rai Chattopadhyay, J. :-

1. The present writ petition is for seeking relief as the petitioner has not been granted with the higher pay scale, as per his qualification, which is allegedly not in conformity with law.

2. The petitioner was appointed in the respondent school as per recommendation of the West Bengal Regional School Commission on July 2, 1999. His service was approved.

3. Fact remains that the petitioner though admittedly has been a Master's degree qualified candidate in Bengali, has opted to be treated as a Pass degree holder and thus was recommended and placed in the respondent school as a pass degree holder teacher.

4. After his approval the petitioner has sought for higher pay scale to him, pursuant to his Master degree qualification.

5. Mr. Sakti Pada Jana, learned counsel appearing for the petitioner would say that the petitioner be governed under Rule 12(3) of ROPA 1998 and should be provided with the higher pay scale.

6. Mr. Jana, would indicate that at the time of induction, the petitioner has been subjected to the same examination as with the other category of candidates.

7. He would further say that the subsequent amendment of ROPA 1998 vide Memorandum No. 155-SE(B)/10M-102/98 dated July 13, 1999 would not be applicable in the petitioner's case on two scores. Firstly, that the petitioner joined at a date prior to issuance of this memorandum and the memorandum as above having no retrospective effect could not be made applicable in case of the petitioner. Secondly, that the said memo no. 155-SE(B)/10M-102/98 has already been set aside by this Court, by dint of the judgment of ***Partha Chatterjee vs. State of West Bengal & Ors.*** reported in ***2004(2) CLJ (Cal) 493***.

8. Thus, according to Mr. Jana, the petitioner would be entitled to be governed under Rule 12(3) of ROPA 1998 and thus would be eligible for grant of higher pay scale.

9. Mr. Pinaki Dhole, learned counsel representing the State has raised strong objection as to the contentions and prayer of the petitioner as above.

10. Mr. Dhole has stated that the petitioner has been recommended by the School Service Commission as a pass graduate candidate for appointment and thus, he cannot be granted any other pay scale, other than commensurate with the category to which, he has been recommended for.

11. For this, Mr. Dhole relied on the memo no. 155-SE(E)/10M-102/98 dated July 13, 1999. He would further submit that the petitioner has voluntarily appeared in the examinations as a pass degree holder and recommended and appointed as such.

12. Accordingly, he says that the petitioner cannot be brought within the purview of ROPA 1998 as claimed.

13. Mr. Dhole, would say that as per the staff pattern of the school, the petitioner has been placed in the respondent school in a graduate category post and thus as per staff pattern the petitioner would not be entitled for grant of higher pay scale.

14. It appears from record that the petitioner was approved in service against the permanent vacancy with effect from July 2, 1999, that is a date prior to the date of notification number 155. The said notification having no retrospective application, therefore cannot be made applicable in case of the present petitioner, as has been done by the respondent. considering the relevant date, this Court is in concurrence with opinion of Mr. Jana learned advocate for the petitioner, that the petitioner should be considered as governed under the provisions of ROPA 1998.

15. In this regard, this Court is further guided by the decision of the Hon'ble Larger Bench of this Court, in case of ***Utpal Kanti Karan [Utpal Kanti Karan versus State of West Bengal*** reported in ***2024 SCC OnLine Cal 1274]***. In the same the Hon'ble Larger Bench has categorically laid down that a teacher with higher qualification would be guided by the relevant Rule, prevalent at the material point of time. As discussed above, in case of the present petitioner, the same is ROPA 1998, relevant portion of which may be quoted as here in below:

> **"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 groups 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 latter."**

16. The issue in the instant writ petition is whether higher education of the writ petitioner who was appointed as a graduate teacher, should be recognisable as per law, in terms of revising his pay to the post graduate category or not. This has to be answered in affirmative, particularly in view of the provisions under ROPA, 1998, as quoted above, under which the petitioner was covered at the material point of time. The fact that the petitioner should be governed under the ROPA 1998, is further fortified through the well celebrated decision of the Hon'ble Larger Bench as stated above.

17. Hence, this court finds, that there remains very limited or no scope at all for the respondent authority to deny the petitioner, the postgraduate scale of pay, pursuant to his actual qualification of Master Degree. As a matter of fact, the petitioner shall be entitled for grant of higher pay scale as above, with effect from the date of his joining that is July 2, 1999. In the manner, this Court finds that the petitioner should also be considered as entitled for 18 and 20 years benefits for satisfactory service as an assistant teacher in the school, as per the G.O. No. 181-SE(B)/5B-1/09 dated October 8, 2009.

18. Hence, it is further found that the present writ petition should succeed.

19. Therefore, let this writ petition be allowed with the directions as follows: -

i. The petitioner is found eligible for grant of post-graduate scale of pay with effect from his date of joining in the school that is, July 02, 1999.

ii. Let the respondent authority, therefore, appropriately refix the pay scale of the petitioner, within a period of four (04) weeks from the date of communication of this judgment.

iii. Accordingly, the petitioner shall be entitled for grant of arrear salary as applicable; let that be released by the respondent in favour of the petitioner within a period of three (03) months from the date of communication of this judgment.

iv. Likewise, the petitioner shall also be entitled for the benefits of 18 years/20 years service benefits on account of his satisfactory service as the Assistant Teacher in the school in terms of G.O. No. 181-SE(B)/5B-1/09 dated October 8, 2009.

v. Hence, let the respondent authority release such benefit in favour of the petitioner, within a period of three (03) months from the date of communication of this judgment.

20. Writ petition No. WPA 20122 of 2021 is allowed and disposed of.

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

(Rai Chattopadhyay, J.)