

DL. 16
17.06.2026
Court No. 652
Sayan

WPA 21075 of 2024

Md. Abunasim Baidya

Vs.

The State of West Bengal & Ors.

Sk. Sahjahan Ali

... for the petitioner

- 1.** Affidavit-of-Service filed on behalf of the petitioner is taken on record. In spite of service of notice, none appears for the State respondent. Hence, in such view of the matter and considering the nature of the present case which involve a well-settled legal principal, the present writ petition is taken up for hearing and order, in absence of the respondent State authorities.
- 2.** The matter relates to rejection of prayer of the petitioner by the respondent authorities vide the impugned order dated December 18, 2023, for grant of higher pay scale on account of his obtaining Masters degree qualification in the relevant subject of his teaching. The petitioner has stated that the respondent School Service Commission recommended his name on September 12, 2007, for appointment as an Assistant Teacher and pursuant thereto he has been appointed on and from October 5, 2007, as a B.Sc. (Hons.) B.Ed. category Assistant Teacher.
- 3.** After entering into the service, the petitioner with the desire to enroll himself in Masters degree course, sought for permission of the School Managing Committee to do so. His prayer as above, has been allowed by the School Managing Committee in a resolution dated July 4, 2010.
- 4.** This has prompted the petitioner to enroll himself for the Masters degree course,

whereas the school forwarded its recommendation and prayer for grant of similar permission for the petitioner to the respondent District Inspector of Schools, Secondary Education, North 24 Parganas, vide its letter dated July 6, 2010. The said respondent authority replied to the letter of the School Authority as above only after a gap of 13 years, that is, in letter dated February 18, 2023, thereby rejecting the prayer for grant of permission to the petitioner to undergo higher education. In the present writ petition, the petitioner has challenged the said order of the respondent authority dated February 18, 2023, and sought for setting aside of the same.

5. Sk. Shahjahan Ali, Learned Advocate for the writ petitioner has founded his argument on the ratio decided by the Hon'ble Larger Bench of this Court in ***Utpal Kanti Karan versus State of West Bengal & Others [2024 SCC Online Cal 1274]***. It has been submitted that an Assistant Teacher who have pursued higher degree course consequent upon due permission of the competent School Authority, cannot be made subject to refusal of grant of commensurate pay scale as per his qualification on a ground, particularly that no prior permission of the District Inspector of Schools was obtained by him, prior to getting enrolled in the Masters degree course. With reference to the Hon'ble Larger Bench's decision as above, it is submitted that the said judgement has authoritatively and conclusively decided that Government Notification No. 593-SE(B) dated November 27, 2007, has no statutory force to require its mandatory implementation, while considering a person's prayer for grant of higher pay scale, upon his obtaining higher qualification.
6. The other two judgements of the Court as written below, has been relied on, in which order of rejection passed by the respondent

authority on similar grounds, have been turned down by this Court. Those are:

(i) Order dated **April 22, 2025** in **WPA No. 3610 of 2015 [Sri Balaram Malik versus State of West Bengal & Others]** and

(ii) Order dated **December 09, 2025** in **WPA No. 26405 of 2025 [Ujjwal Chandra versus State of West Bengal & Others]**.

It is finally submitted that for the reasons as above and upon application of the ratio decided in the judgements as referred to above, the impugned order in the present writ petition is liable to be set aside.

7. It appears from the records that the respondent's ground for rejection of the petitioner's prayer is solely made out, depending on the provision of the Government Notification No. 593-SE(B) dated November 27, 2007. The reason for such rejection of the petitioner's prayer has been put forth as that as per terms of the said notification, in order to be eligible for higher pay scale, the petitioner would be required to obtain prior permission of the District Inspector of Schools before entering into the higher degree course; since in the present case, the petitioner has not obtained the same priorly, before entering into the course, he would not be eligible for enhanced pay scale by operation of the provision under the said notification.

8. The Hon'ble Larger Bench of this Court has conclusively decided about the legal force which the said notification No. 593-SE(B) dated November 27, 2007, actually bears. The same has found the notification as above to have no statutory force in order to make its application as compulsory or unavoidable. On the contrary, it is noted that so far as the issue of prior permission obtained by the petitioner is concerned, he has duly applied to the School Managing Committee and was granted permission by

the same. The record has further revealed that the School Managing Committee immediately after taking resolution, permitting the petitioner to enroll himself for Masters degree, has forwarded entire documentation, including its recommendation to the respondent District Inspector of Schools for necessary action from its end, but unfortunately, to no avail. Therefore, having failed to discharge its own duty in time, the said respondent authority cannot come up at the subsequent stage with an allegation against the petitioner himself regarding any inaction as regards obtaining prior permission from the D.I. As a matter of fact, the School Managing Committee, which is nothing less than a competent authority for the writ petitioner, has granted permission to the petitioner in its resolution dated July 4, 2010. Therefore, the School Managing Committee has acted within its jurisdiction while granting prior permission in response to the petitioner's prayer, and so far as the petitioner is concerned, the permission granted by the School Managing Committee would be sufficient for him to undertake the following course of action, which he did.

9. The reasons as above has prompted this Court to find gross irregularity and illegality in the order of the District Inspector of Schools, Secondary Education, 24 Parganas North dated December 18, 2023 to render it as liable to be set aside. Hence, the present writ petition No. WPA 21075 of 2024 is allowed, with the following directions:
 - i. The impugned order of the District Inspector of Schools, Secondary Education, Purba Medinipur dated December 18, 2023, is set aside;
 - ii. The petitioner shall be granted higher scale of pay pursuant to his post graduate qualification and with effect from the appropriate date in accordance with law;

- iii.* The respondent authority shall immediately take steps for refixation of salary of the petitioner within a period of four weeks from the date of communication of copy of this order;
 - iv.* Arrear amount of salary payable to the petitioner shall be disbursed by the said respondent within a period of three months from the date of communication of copy of this order.
- 10.** Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)