

26.02.2026
Item No.19
Court No.11
Avijit Mitra

**FMA 1021 of 2025
with
IA No.CAN 2 of 2024**

**State of West Bengal & ors.
- versus -
Mousumi Roy & anr.**

Mr. Suman Sengupta,
Mr. Sambuddha Dutta
...for the appellants
Mr. Bikram Banerjee,
Mrs. Somshubhra Ganguly,
Mr. Sutirtha Nayek
....for the respondent no.1/writ petitioner

Affidavit-of-service, as filed, be kept on record.

By preferring the present intra-court appeal, the appellants have assailed the order dated 16th April, 2024 passed by the learned Single Judge in WPA 25340 of 2015. By the said order, the learned Single Judge accepted the contention of the writ petitioner and directed respondent no. 3 to release the higher scale of pay in favour of the writ petitioner/respondent, holding that the issue raised in the writ petition had already been decided by an earlier decision of the same Court in WPA 18770 of 2012 (*Payel Jana (Panja) vs. State of West Bengal & Ors.*). The learned Judge further recorded that, during the hearing of the said matter, it was informed that the order passed in Payel Jana's case had not been challenged before any superior forum and had, in fact, been acted upon by the concerned authorities.

Mr. Sengupta, learned advocate appearing for the appellants, submits that the factual matrix of the case of Payel Jana and that of the present case are totally different, inasmuch

as Payel Jana (in short, Payel) was appointed as an Assistant Teacher under the Honours/Post Graduate category in Botany and, at that juncture, she was pursuing a Master's degree course. After completion of the said degree, she approached the authority for grant of a higher scale of pay. However, despite such approach, the authority did not release the benefits, which compelled Payel to approach this Court by filing WPA 18770 of 2012, which was disposed of by directing the authority concerned to grant a higher scale of pay in her favour.

However, in the present case, the writ petitioner/respondent no. 1 was appointed as an Assistant Teacher under the Pass Graduate category in the Physical Education & Work Education group. He submits that the issue as to whether an Assistant Teacher appointed under the Work Education and Physical Education group in the Pass Graduate category can be granted the benefit of a higher scale of pay upon improvement of qualification relevant to his/her teaching assignment is no longer *res integra*.

He submits that in an appeal being FMA 1244 of 2025 (State of West Bengal & Ors. vs. Ratna Saha & Ors.), the said issue has been set at rest by holding that an Assistant Teacher appointed under the Pass Graduate category in the Work Education & Physical Education group is entitled to such benefit upon improvement of the qualification in the subject relevant to his/her teaching.

He, therefore, submits that the present appeal may be disposed of with a clarification that, in the case of Mousumi Roy (who was a teacher of Physical Education), the decision in Payel

Jana's case would not be applicable; rather, her case would be governed by the decision rendered in FMA 1244 of 2025.

Mr. Banerjee, learned advocate appearing for the writ petitioner/respondent no. 1, submits that if such clarification is made by this Court, he will not stand in the way.

Having heard the learned Advocates for the respective parties and upon perusal of the materials on record, and upon consideration of the decisions in *Payel Jana* and *Ratna Saha* (supra), we are of the considered view that the decision in *Payel Jana* is distinguishable on facts from the present case.

However, since in *Ratna Saha* (supra), we have already decided that, in respect of Physical Education & Work Education, there exists no distinction between the Pass category and the Honours category, and that a teacher of Physical Education possessing a Master's degree in Physical Education would be entitled to the Post Graduate scale of pay notwithstanding the fact that such Post Graduate degree in Physical Education was not necessary for appointment as an Assistant Teacher in Physical Education.

Therefore, applying the proposition laid down in *Ratna Saha* (supra), we are inclined to hold that the writ petitioner/respondent no. 1 is also entitled to the benefit of the higher scale of pay as directed by the learned Single Judge. In view of the above, no interference is called for in the present appeal.

Accordingly, with the above observations and directions, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)