

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 29770 of 2025

Madhumita Banerjee
-versus
The State of West Bengal & Ors.

Mr. Bikram Banerjee
Mr. Arindam Shit
... For the petitioner

Mr. Nirmalya Biawas
... For the State

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

2. The order passed by the District Inspector of Schools (Secondary Education), Kolkata dated 12th June, 2025 rejecting the petitioner's prayer for grant of higher scale of pay is impugned in the instant writ petition.

3. The petitioner passed the Bachelor of Physical Education in the year 1999 and completed her master degree in Physical Education in the year 2001. Appointment letter was issued in her favour on 21st April, 2001. The result of the master degree in Physical Education was published on 21st September, 2001.

4. In September 2004, the petitioner applied for grant of higher scale of pay on acquiring master degree. The prayer of the petitioner stood rejected. The rejection was challenged by the petitioner in a writ petition, being

WP 6546 (W) of 2006. On 21st December, 2012, the said writ petition stood disposed of directing the District Inspector of Schools to take a decision on the prayer of the petitioner seeking higher scale of pay on acquiring master degree in line with the judgment delivered by the Court on 21st December, 2012 in WP 6547 (W) of 2006 (Amitava Manna v. State of West Bengal & Ors.).

5. Challenging the order passed by the Court in respect of the petitioner an appeal being MAT 688 of 2014 was preferred which stood disposed of by the Hon'ble Division Bench on 21st February, 2025, holding that the issue has already been decided by the Three-Judge Bench of the Court in the case of **Utpal Kanti Karan & Ors. v. State of West Bengal & Ors.** reported in **2024 SCC OnLine Cal 1274**.

6. The District Inspector of Schools considered the case of the petitioner and rejected the same by passing the impugned order holding that no order has been issued by the competent authority to accord higher scale of pay to those groups of teachers subsequently acquiring M.P.Ed. in Work Education and Physical Education group.

7. Learned advocate for the petitioner submits that as the issue has been conclusively decided by the Three-Judge Bench of this Court, the District Inspector of Schools ought to have acted in terms of the said

decision and not wait for any order to be passed by the competent authority in this regard.

8. Learned advocate for the petitioner reiterates the relevant provision in the judgment of Utpal Kanti Karan (supra) in support of the submission that the petitioner would be entitled to the higher scale of pay.

9. Reliance has also been placed on the order dated 22nd January, 2025 passed by the Court in WPA 18602 of 2018 (Ratna Saha v. The State of West Bengal & Ors.), wherein the Court in a similar issue, was pleased to direct the respondent authority to grant post graduate degree of pay with effect from the date of appointment by taking into consideration the master degree in Physical Education.

10. Prayer has been made to set aside the impugned order and to direct the authority to grant higher scale of pay to the petitioner.

11. Learned advocate representing the State respondents very fairly submits before the Court that the issue in question has been decided by the Three-Judge Bench in the matter of Utpal Kanti Karan (supra).

12. Upon hearing the submissions made on behalf of both the parties and on perusal of the materials on record, it appears that the issue has already been covered and decided in the matter of Utpal Kanti Karan (supra). The petitioner joined the master

degree course prior to getting her appointment. Her final examination was conducted after she got the job. In such a situation, the candidate would be entitled to receive higher scale of pay upon enhancement of educational qualification.

13. The District Inspector of Schools misdirected himself by waiting for further order from the competent authority according higher scale of pay. The District Inspector of Schools ought to have taken steps in terms of the law laid down by the Court and not wait for any further order to be issued by the competent authority.

14. 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.

15. In view of the above, the impugned order is liable to be set aside and is, accordingly, set aside.

16. The District Inspector of Schools (Secondary Education), Kolkata is directed to re-calculate the salary of the petitioner after providing the higher scale of pay taking into consideration her master degree qualification in Physical Education on and from the date of declaration of the result, i.e., on 21st September, 2001.

17. 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.

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

19. The writ petition stands disposed of.

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

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

(Amrita Sinha, J.)