

Item No.3
12.02.2026
Court. No. 6
GB

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

WPA 1333 of 2025

Sharmila Barman
VS
The State of West Bengal & Ors.

*Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya,
Ms. Mirnmayee Das,
Ms. Dayeeta Datta*

...for the Petitioner.

*Mr. Hirak Barman,
Mr. Momenur Rahman*

...for the State.

1. The petitioner is aggrieved by an order dated May 6, 2025, passed by the Commissioner of School Education, West Bengal.
2. By the order impugned, the authority held that there was no provision for relaxation towards drawal of more than four annual increments by untrained teachers, who had joined service prior to 2002. The issue before the authority was entitlement of the petitioner to incremental benefits from the date of her appointment in 2001 upon application of the Government Order (G.O) dated July 30, 2009 issued by the OSD and EX-Officio Joint Secretary, School Education Department, Government of West Bengal. The

decision was taken pursuant to a direction of a coordinate Bench in WPA 2657 of 2022.

3. The District Inspector of Schools, Secondary Education, Cooch Behar had directed the petitioner to refund four incremental benefits which were given to her when she was discharging her duties as an Assistant Teacher of Andaran Fulbari Girls High School. The petitioner completed her B.Ed degree in 2009 upon being enrolled in the session 2006-07, from the North Bengal University. The petitioner was initially not allowed the normal annual increments, but subsequently the same was allowed on and from April 1, 2008 till August 5, 2019.
4. According to the respondents, the petitioner had overdrawn excess salary to the amount of Rs.1,25,593/-. This was allegedly detected when the 18 years CAS benefit was being processed. The petitioner was directed to refund the overdrawn salary. The petitioner filed a writ petition and the Commissioner of School Education was asked to decide the applicability of the G.O dated July 30, 2009 in the case of petitioner. The recovery was stayed.
5. The authority relied on the notification dated February 12, 1999, which provided that untrained secondary school teachers would be allowed

annual increments in the revised scale of pay on the condition that, such untrained teachers would get themselves trained within five years from the date of appointment. An untrained teacher of a recognized secondary school with ten years teaching experience shall be treated as a trained teacher for the purpose of drawal of increment in the scale applicable to the teacher concerned with effect from the date on which the condition of teaching experience was fulfilled. Such a teacher shall be eligible to draw the increment on completion of one year's service from the date on which the above condition was fulfilled.

6. Reliance was also placed on the memo dated July 30, 2009, which provided that, although four increments were allowed to the Assistant Teacher during the first five years within which time they had to complete their B.Ed course from any institution approved by the NCTE, due to court cases for the past three years, the incumbents concerned were unable to even get themselves admitted to the B.Ed course in the colleges approved by NCTE. Therefore, the Governor, after careful examination of the facts and circumstances of the cases, had been pleased to allow the incumbents to draw increments upto 2012,

provided they completed such B.Ed training from institutions approved by the NCTE, within 2012.

7. According to the authority, the relaxation was granted for the untrained teachers who could not complete their B.Ed degree due to pending court cases. Such court cases were pending for a period of three years prior issuance of the notification. However, the petitioner ought to have enrolled herself within five years from her date of joining, i.e. within session 2005-06 to avail of the circular. The petitioner enrolled herself for the session 2006-07. Thus, the circular of 2009 was held to be in applicable to the petitioners.
8. The issue involved, revolves around the interpretation of the G.O dated July 30, 2009. The contents thereof are set out below:-

“In reference to his memo no.2433-G.A/OM-20/2006 (pt.) dated 20.12.2008 on the above noted subject, the undersigned is directed to say as per existing rules/provisions 4(four) increments are allowed to the Asst Teachers during their first 5 (five) years of service within which they have to complete the B-Ed course approved by NCTE. As during this period of Court Cases continued for the last 3 years, the incumbents’ concerned were unable to even get themselves admitted to the B-Ed Course in the colleges approved by NCTE, the Governor after careful examination of all the facts &

circumstances of the cases has been pleased to allow the incumbents in drawing increments upto the year 2012 as usual and during that period they must have to complete such training approved by NCTE.

This is only one time relaxation which is being granted upto the year 2012 and will not be extended beyond that on any ground.”

9. I find that the purpose behind such notification was to enable those teachers who were unable to admit themselves in the B.Ed courses in colleges approved by the NCTE on account of various court cases pending for the previous three years, were allowed to draw increments upto the year 2012 and within such period, that is, 2012 they were required to complete such training from institutions approved by the NCTE. The interpretation of the authority that the G.O did not apply to those untrained teachers who failed to get admitted within 2005-2006 session, is restrictive. The authority has read in to the circular, a cutoff date, which was not the idea behind issuance of such G.O. Moreover, due to such pending cases, there was no guarantee that the petitioner could have successfully completed her course within five years from 2001. The G.O clearly provided that, those persons who were unable to get themselves admitted to the B.Ed courses in colleges approved by the NCTE, as the court cases continued for the

past three years, would be allowed the benefit of the circular of 2009 and they were given an extended time upto 2012 to complete their B.Ed course. The G.O simply stated that, as court cases continued for three years and many teachers could not get themselves admitted to B.Ed courses in colleges approved by the NCTE, the increment would be allowed upto 2012 and the course would have to be completed within 2012. The G.O did not provide any cutoff date within which time the candidates were required to enroll. The G.Os of 2018 and 2019 provided a cutoff date with regard to appointment, to avail the benefit of the 2009 G.O. The G.O of 2009 was a onetime relaxation. The petitioner enrolled herself in the session 2006-07. By that time the court cases were already initiated, as it appears from the circular itself that the court cases had continued for more than three years. The expression 'in view of the court cases which continued for the past three years', does not make the G.O applicable only to candidates who were to admit themselves to B.Ed courses within 2005-2006.

10. The G.O has to be read in its literal sense. The meaning it conveys is unambiguous and clear. Thus, importing a restrictive condition to the said G.O was beyond the authority of the Commissioner

of School education. The clear reason behind such notification was to give a one time opportunity to the Assistant Teachers who had been appointed in the schools, but failed to obtain their B.Ed degree upto 2012 from an institute approved by the NCTE, for enjoying increments provided they completed the course within 2012.

11. Thus, to expect the petitioner to get herself admitted in an institution whose fate was uncertain, is giving the notification an extended meaning, which was not the intention behind its issuance. The subsequent clarifications of the G.O in 2018 and 2019 and extension of benefits to untrained teachers, who were appointed between 2006 and 2009 or between 2002 and 2005, cannot take away the right of the petitioner to be covered by such G.O of 2009, as such right vested in the petitioner in 2009. A right or benefit which vested in 2009, could not be taken away by subsequent notifications.
12. Under such circumstances, the order impugned is set aside.
13. The petitioner is entitled to the benefit of the notification dated July 30, 2009 and consequential benefits under the Career Advancement Scheme. The CAS benefit will also be calculated and decided on the basis that, the petitioner was covered by the

benefit of the G.O dated July 30, 2009. The money which has been paid by the petitioner cannot amount to an acceptance of the order impugned. The petitioner might have refunded the money to prevent any kind of disruption in her career and to avoid any kind of administrative action like stoppage of her salary, etc. She may have tried to play safe but, that does not disentitle her from seeking recourse to law, to vindicate her rights and pray for appropriate orders in this case. The bargaining capacity of the petitioner was not evenly balanced with the respondents and only because the petitioner refunded the money, that cannot stand in the way of the petitioner to challenge the decision of the authority and approach this Court on the ground of arbitrariness. The money deposited by the petitioner shall be refunded. The 18 years CAS benefit will be calculated accordingly. The exercise shall be completed within 10 weeks from date of communication of this order.

14. Accordingly, the writ petition is allowed and disposed of.

15. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)