

27.1.2025
Court No. **25**
SL.23
s.k

WPA 4515 of 2021

Bhagawan Chandra Bera
vs

The State of West Bengal & Ors.

Mr. Sakti Pada Jana
Mr. Aninda Bhattacharyya
Mr. S.Sarkar
Mr. S.Shah
Mr. K.P.Santra
...for the petitioner

Mr. Supriyo Chattopadhyay, Ld.AGP
Mr. Sabyasachi Mondal
...for the State

The petitioner's prayer for grant of pay scale meant for post graduate teachers, dated November 27, 2013 is now pending for consideration before the District Inspector of Schools(S.E.), Paschim Medinipur/respondent no. 3.

The writ petitioner, after having entered into service on August 18, 2010 has applied for grant of permission before the School Managing Committee to further study to enhance his qualification. The School Managing Committee, by dint of a resolution dated November 19, 2010, has granted such prior permission of the petitioner.

According to the said resolution, it appears that the prayer of the petitioner along with the recommendation of the School Managing Committee has also been forwarded to the office of the respondent no. 3, in terms of the existing rules.

Be that as it may, pending receipt of any permission from the respondent/District Inspector of Schools (S.E.), Paschim Medinipur/respondent no. 3, the petitioner had enrolled himself for Master's Degree Course and finally qualified therein. His last date of examination was on December 31, 2012.

Subsequently, he prays before the School Managing Committee for grant of higher pay scale pursuant to his Master's Degree. The School Managing Committee approved the prayer of the petitioner and sent the same for approval of the respondent no. 3, vide its letter dated June 4, 2014.

Since there has not been any reply or action by the respondent No. 3 pursuant to such prayer of the petitioner and the recommendation of the School Managing Committee, the present writ petition was filed by the petitioner.

An instruction sheet has been submitted in Court today by the respondent no. 3, dated January 24, 2025.

The stand of the State respondent is elaborated therein in the following words:-

“That Government Order No. 593-SE(B) issued on 27th November, 2007 under Section 14(3) of the Control of Expenditure Act-2005 replacing all earlier circulars and modifying Government Order No. 1595 dated 26th December, 2005. It provided, inter alia:

- (i) All Teachers required to seek prior permission of the Managing Committee/Head of Committee/Administrator, to entrol for any examination for enhancement of qualification.(Clause 1).*
- (ii) Teachers required to seek prior permission of the District Inspector of Schools(SE), if he/she wishes to claim higher scale of pay for obtaining higher qualification through Management Committee of the School.(Clause 3).*

As the petitioner enhanced his qualification without prior permission from the District Inspector of Schools, he is

not entitled to higher scale of pay in terms of provision of Government order prevailed on that material point of time”.

Hence, the respondent has stated that the petitioner, who has not obtained any prior permission from the respondent no. 3/4, before enrolling himself for the higher course, he would not be entitled subsequently to claim any higher scale of pay, in terms of G.O.No. 593(B) issued on 27th November, 2007, as per the provisions under Section 14(3) of the West Bengal Schools (Control of Expenditure) Act-2005.

The Court finds that the issue involved in the present case has already been settled by the Hon’ble Larger Bench in the case of Utpal Kanti Karan-vs-State of West Bengal 2024 SCC Online Cal 1274. May the portion thereof be quoted, as herein below:-

“273(g)-If a teacher has partially completed higher study before entering service he/she would come under permission of G.O.No. 1595-SE(S) dated 26th December, 2005 and the question of taking permission from DIS-SE concerned would not arise”.

In the present case, it appears that after joining into service on August 18, 2010, the petitioner duly sought for permission before the School Managing Committee and was granted such permission.

However, in spite of the recommendations of the School Managing Committee having been forwarded to the respondent no. 3, no reply is obtained.

The Court finds that the petitioner having duly applied before the School Managing Committee, which is the proper channel, to forward his prayer of the respondent no.

3, has discharged his responsibility in terms of the existing rules.

Under such circumstances, in view of the finding of the Hon'ble Larger Bench in the decision as mentioned above, the Court finds that the writ petitioner would be covered under the provisions under G.O.No. 1595-SE(S) dated 26th December, 2005 and not G.O. No.593-SE(B) dated 27th November, 2007.

In such circumstances, the Court cannot accept the stand as taken by the respondent no. 3 in the present case as a correct one.

Instead it finds that in terms of the settled law, the respondent no. 3 is duty bound to grant higher pay scale to the writ petitioner, in accordance with law.

Hence, it is found proper to dispose of the present case by directing the respondent no. 3/4 to dispose of the application of the petitioner dated November 27, 2013, forwarded by the School authority vide letter dated June 4, 2014, by allowing him the pay scale meant for post graduate teachers, with effect from the following day of last date of his Master Degree Course, Part-II final examination.

Let the pay fixation of the petitioner be immediately made and arrear salary if any, be granted to him.

Let the respondent nos. 3 /4 conclude the exercise as above within a period of four weeks from the date of communication of copy of this order.

With the above observations and directions the writ petition being WPA 4515 of 2021 is disposed of.

Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

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

(Rai Chattopadhyay, J.)