

WPA 21444 of 2025

**Ujjala Saha Roy
Vs.**

The State of West Bengal & Ors.

Mr. Sk. Intiaj Uddin
... for the Petitioner.

Mr. Sugata Shankar Roy
Mr. Pradip Kumar Maity
... for the State.

- 1.** The writ petitioner was appointed as the Headmaster of a secondary school on lien for a period of one year with effect from 1st July, 2010 and later on approved in the post. After completion of the lien period, he continued to be appointed as a Headmaster on a permanent basis, with effect from 1st July, 2011 and approved in the permanent post. On and from 14th August 2013, the school was upgraded as a higher secondary school.
- 2.** The petitioner has been allowed to draw pay including 3% additional incremental benefit along with grade pay, with immediate effect by virtue of a memo dated 11th November, 2024. The source of this benefit to a Headmaster of a higher secondary school was notification No. 1003-SE(S)/5P-129/12 dated 4th December, 2014 [in short “No.1003”]. According to the respondent authority, the said notification has been subsequently withheld and cancelled vide a further notification No. 292-SL/5S-294/12 dated 22nd March, 2017 [in short “No.292”].

3. In this writ petition, the respondent represented by Mr. Sugata Shankar Roy, learned advocate specifically has emphasised on the said memo No.292, to submit that the Headmasters of the school upgraded between 1st January, 2006 and 27th February, 2009 only would be eligible for the said benefit. That, after the cut-off date specified in ROPA 2009 and mentioned therein, that is 27th February, 2009, the Headmasters of the upgraded schools would not be eligible for the grant of 3% additional incremental benefit, but only the grade pay of Rs.200/-. That, the writ petitioner having fallen under the said category, the benefit once advanced to him, has been withheld at the time of his superannuation. Consequently, the petitioner has also been granted pension in terms of the old scale of pay excluding 3% additional increment, instead of the scale at which he actually drew his last salary. For this, according to the said respondent, the instant writ petition should be dismissed.

4. For the petitioner Sk. Imtiaz Uddin, learned advocate has submitted that the law in this regard is now well settled and has taken a final shape through various judgments of both the Single and Division Benches of this Court. That the cut-off date is of no consequence and equality in treating the persons who are similarly circumstanced has been upheld, in terms of the Constitutional principles. He mentions a Division Bench judgment of this Court in **FMA 981 of 2022 dated 7th January, 2025 [Samarendranath Adak versus State of West Bengal and Others]**. He mentions further that relying thereon, another

judgment has been passed by a Single Bench of this Court ***dated 4th November, 2025 in WPA No. 22230 of 2025 [Pankaj Kumar Biswas versus State of West Bengal]***. According to Sk. Imtiaz Uddin, learned advocate, by following the ratio of the said judgment and orders of the Court, the writ petitioner may be considered to be eligible for the said benefit. He seeks that a necessary order be issued directing the respondent authority to allow such benefit to the writ petitioner.

5. The Division Bench of this Court in ***Samarendranath Adak (supra)*** holds as follows:

“The similarly circumstanced persons cannot be treated differently. The equality amongst the equal is the hallmark of Constitutional ethos and, therefore, the moment the said Memo was quashed and set aside, the authorities cannot treat the same alive so far as the appellant is concerned, as the writ petition filed by the appellant was dismissed by the Single Bench. The judgment quashing the said Memo operates in rem and not in personem and, therefore, the benefit of the said judgment should be extend to the appellant as well.”

6. The notification No. 292 has also been quashed and set aside. The Division Bench notices this fact too. In the order dated 23rd March 2025, in writ petition No. WPA 20847 of 2025, this Court has held that the application of the cutoff date for providing benefit under the notification No. 1003 would be contrary to the Constitutional principle of equality.

7. Therefore, the settled principles of law having been as discussed above, the objection of the respondent is found not to be tenable in this case. On the contrary, the present writ petition is to be allowed pursuant to the said settled principles of law, with the following directions:

(i) The writ petitioner is found eligible for grant of 3% additional increment with effect from the date of upgradation of the school and is entitled to draw salary at a scale of pay including the said benefit;

(ii) The respondent No. 4 is directed to immediately give effect to re-fixation of pay scale of the writ petitioner in terms of the directions as made above, within a period of four (04) weeks from the date of communication of this order;

(iii) The respondent No. 4 shall release the writ petitioner the amount of arrear pay, in terms of the revision in pay scale as directed, within a period of three (03) months from the date of communication of this order;

(iv) The respondents No. 4 and 6 are directed to cohesively act to issue revised pension payment order of the writ petitioner, considering his last drawn salary and pension payable, to be inclusive of the benefit of 3% additional increment, with effect from the appropriate date, within a period of four (04) weeks from the date of communication of this order;

(v) Arrear pension should be disbursed to the writ petitioner within a period of three (03) months from the date of communication of this order.

- 8.** The writ petition No. WPA 21444 of 2025 is hence, allowed and disposed of.
- 9.** Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)