

28.2.2024

ct.25, sl.37
sk

Surajit Ghosh-vs-State of West Bengal & Ors..

Ms. Papiya Chatterjee
...for the petitioner.

1. Affidavit of service as well as supplementary affidavit filed by the petitioner is taken on record.
2. In spite of due service, none appears for the respondent State.
3. The petitioner has challenged an order of the District Inspector of Schools (Secondary Education), Hooghly dated August 31, 2010, thereby rejecting the petitioner's prayer for grant of post graduate scale of pay pursuant to his higher qualification. In the impugned order as above, the District Inspector of Schools has relied on the Government Notification No. 1595 SE(S) dated December 16, 2005 and No. 593-SE(B) dated November 27, 2007 thereby indicating that due to the petitioner having not obtained prior permission from the office of the District Inspector of Schools(Secondary Education), Hooghly before enrolling himself for the higher post, his prayer for grant of post graduate pay scale pursuant to his Master Degree qualification, cannot be granted.
4. None appears for the respondent in spite of completed service. Hence, the matter is taken up in absence of the respondent authorities.

5. In this regard the law is now well settled in the Full Bench judgment of Utkal Kanti Karan-vs-State of West Bengal 2024 SCC Online CAL 1274.

“273(g)-If a teacher has partially completed higher study before entering service he/she would come under purview of G.O. Mp/ 1595-SE(S) dated 26th December, 2005 and the question of taking permission from DIS-SE concerned would not arise”.

6. I find that there is no scope for the respondent authorities to bypass the law settled in this regard in so far as the prior permission of the District Inspector of Schools (Secondary Education), Hooghly would not be imperative for the present petitioner in the factual background of this case, in particular.

7. Hence, the impugned order dated August 31, 2010 appears to be not in conformity with the settled law and liable to be set aside.

8. The present writ petition No. WPA 25178 of 2010 is therefore, allowed and disposed of with the following directions:-

- i) Let the District Inspector of Schools (Secondary Education), Hooghly take up and consider afresh the issue of grant of higher pay scale to the writ petitioner, particularly in view of the law as enumerated vide the

judgment of this Court in Utpal Kanti Karan's case(supra).

- ii) In doing so, the respondent no. 3 shall afford opportunity of hearing to the writ petitioner as well as pass a reasoned order, if not, the prayer of the petitioner is allowed by him immediately.
- iii) The entire exercise as above, should be completed by the State respondent within a period of three weeks from the date of communication of this order.

9. In accordance with that the petitioner, during pendency of the instant writ petition, he has been transferred from the erstwhile School to a new School, namely, Digsui Sadhana Banga Vidyalaya(H.S.) within jurisdiction of the same D.I. A supplementary affidavit has been filed to that effect, which is taken on record and the fact is noted. Let copy of this order be also served to the said school authority, in which the petitioner is presently working.

10. The writ petition is disposed of.

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

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

(Rai Chattopadhyay, J.)