
(2011) 11 CAL CK 0022
In the Calcutta High Court
Case No : Writ Petition No. 14513 (W) of 2009

Bimal Kumar Das

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 18-11-2011

Acts Referred:

Citation : (2012) 1 CHN 605

Hon'ble Judges : Ashoke Kumar Dasadhikari, J

Bench : Single Bench

Advocate : Debjani Sengupta, for the Appellant; S. Bhattacharya for the respondent No. 4, for the Respondent

Judgement

Ashoke Kumar Dasadhikari, J.—The writ petitioner is aggrieved by and dissatisfied with the impugned order passed by the Director of Mass Education Extension, West Bengal dated 25th April, 2003 wherein the concerned Director has refused to "grant higher scale of pay for acquiring Master Degree in Bengali by the writ petitioner on the ground that i) there is nothing to affirm that the Directorate granted permission to improve his qualification with an order for granting higher scale of pay for getting higher qualification, (ii) he was not appointed in the school as a Bengali teacher, though he did his M.A. degree in Bengali, (iii) there is no provision in the rules framed by Mass Education Extension Department that a teacher would get higher scale of pay if he obtained higher qualification. Ms. Sengupta learned Counsel representing the writ petitioner submits that the finding of the Director is contrary to the circular, norms and the rules applicable in this regard. Ms. Sengupta submits that the writ petitioner obtained higher qualification in the year 1985 and the school authorities of "Calcutta Blind School" utilising his service in Bengali since the school requires Bengali teacher for imparting Bengali education.

2. She submitted that her client obtained prior permission and study leave for improving his qualification. She pointed out that under Government Memo No. ISO-Edn (MEE) Calcutta dated 31st January, 2000 the Deputy Secretary,

Government of West Bengal informed the Director of Mass Education Extension, Government of West Bengal to the effect that the Government Order bearing No. 57-SE(S) dated 27th January, 1995 as a guideline for granting pay for higher qualification to the Assistant Teachers of the institutions for the handicapped, is existing and in the memo dated 31st January, 2000 it was clearly mentioned about the admissibility of higher scale of pay of acquiring higher qualification in respect of the teachers of the institution for the handicapped and accordingly, her client is entitled to get higher scale of pay for acquiring higher qualification and/or improvement of his qualification.

3. She further pointed out that it would appear from the G.O. 57-SE(S) dated 27th January, 1995 that even in case of teachers appointed in a particular subject, improved his qualification on different subject in that event the concerned teacher is entitled to get higher scale of pay as prescribed by the State Government provided such Assistant Teacher took individually at least six such period per week as officially allotted by the authority of the respective schools to such Assistant Teacher within the normal workload upon the written consent of the concerned teacher.

4. In the instant case it was submitted by Ms. Sengupta that the concerned teacher was taking six classes in Bengali in the concerned school. According to Ms. Sengupta the aforementioned G.O. issued by the Government is clearly applicable and the impugned order passed by the Director of Mass Education Extension, Government of West Bengal is contrary to the circular and/or norms applicable in such cases.

5. Ms. Sengupta submitted that the school authorities who are getting service from the writ petitioner has also recommended that the concerned teacher is entitled to get higher scale of pay for improving his qualification.

6. Learned Counsel appearing for the Managing Committee of the school supports the contention and it was submitted by him that the teacher is taking Bengali classes in the school and the school authorities have recommended for higher scale of pay but unfortunately the impugned order was passed on 25th May, 2003 by the Director of Mass Education Extension, West Bengal.

7. The records produced by the learned Counsel for the Managing Committee showing that the writ petitioner was taking six classes in a week be kept in record.

8. At the time of hearing nobody appeared for the State. It appears from the record that on 28th October, 2009 there was direction for filing affidavits, no affidavit was filed nor any extension was prayed. Thereafter matter appeared before this Court on 11th July, 2011 when I directed the learned Counsel appearing for the school authorities to produce records to show if the petitioner was allotted six Bengali classes in a week as per circular.

9. Heard the learned Counsel appearing for the parties and considered the

averments made in the petition as well as the documents and circulars annexed to the writ petition. From a bare perusal of two Government Orders one dated 31st January, 2000 and the other one dated 27th January, 1995 it is clear that in case of acquiring higher qualification by an Assistant Teacher of the school, who is teaching in a handicapped school, the concerned teacher is entitled to get higher scale of pay. Even if the concerned teacher is appointed for a particular subject, acquiring of such higher qualification on a different subject for which the school authorities are taking his service, entitle the concerned teacher to get higher scale of pay provided he takes six classes on that subject in a week in the handicapped school.

10. In view of the aforesaid two circulars and/or guidelines I find that the impugned grounds recorded in the impugned order of rejection are without any substance and contrary to law. It appears to me that the impugned order was passed without looking into and/or considering the aforesaid two circulars and therefore, the impugned order is illegal and arbitrary and the same should be quashed by this Court.

11. On the aforesaid ground I set aside the impugned order dated 25th April, 2003 passed by the Director of Mass Education Extension, West Bengal and direct the concerned respondent to release all arrear pay in favour of the writ petitioner for acquiring higher qualification i.e. M.A. in Bengali since 1st January, 1995 and to give all retrial benefits on the basis of such higher scale of pay.

12. The concerned respondents are directed to take all steps for releasing the arrear within a period of ten weeks from the date of communication of this order.

13. The writ petition is, thus, disposed of. There would be no order as to costs. Urgent photostat certified copy of this order, if applied for, be furnished to the appearing parties on priority basis.