

(2013) 02 CAL CK 0013
In the Calcutta High Court
Case No : Writ Petition No. 3572 (W) of 2013

Debabrata Mondal

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 07-02-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 2 WBLR 295

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : Sakti Pada Jana, for the Appellant; Ram Mohan Pal, for the Respondent

Final Decision : Allowed

Judgement

Debasish Kar Gupta, J.—Let affidavit-of-service be kept on record. This writ application is filed by the petitioner for assailing an order passed by the respondent No. 3 under his memo No. 555-L dated September 30, 2010. By virtue of the order impugned, the respondent No. 3 rejected the prayer of the petitioner for extending the benefit of post graduate scale of pay in his favour in connection with his services as an assistant teacher of Kakra High School, District Purba Medinipore.

2. The appointment of the petitioner was approved by the respondent No. 3 with effect from April 20, 1987 in the post of an assistant teacher having qualification of B.Sc. (Bio) with B.P.Ed.

3. The petitioner prayed for prior permission from the managing committee of the school under reference and the above managing committee adopted a resolution in favour of the petitioner in its meeting dated December 12, 2002.

4. The petitioner obtained M.Sc. degree in Botany. The last date of his examination being June 30, 2005. The petitioner submitted a prayer before the managing committee of the school in question for extending the benefit of post-

graduate scale of pay in his favour. The school authority, in its turn, forwarded the matter to the respondent No. 3.

5. Since the respondent No. 3 did not take any decision in the matter, the petitioner filed an application under Article 226 of the Constitution of India in the matter of Debabrata Mondal v. State & Ors (In re: W.P. 11221(W) of 2007).

6. The above writ application was disposed of on July 9, 2008 with a direction upon the respondent No. 3 to take a decision in the above matter in accordance with law.

7. The respondent authority rejected the claim of the petitioner taking recourse to a Government Order issued under memo No. 593-SC(B) dated November 27, 2007 relating to obtain prior permission from the District Inspector of Schools concerned.

8. I have heard the learned Counsel appearing for the respective parties at length and I have considered the fact and circumstances of this case. Admittedly, in connection with the provisions of sub-section 3 of Section 14 of the West Bengal School (Control and Expenditure) Act, 2005, a teacher after obtaining the post graduate degree is entitled to get post-graduate scale of pay.

For proper adjudication of this case, the above provisions is quoted below: (14(3))

Every teacher of a school shall, if appointed in the honours graduate or post graduate teacher category, be entitled to draw pay of post graduate teacher category, upon acquiring post graduate degree, in the manner as may be specified by order.

9. After perusing the above provisions. I find that the procedure for granting post-graduate scale of pay may be prescribed by government order. The Government prescribed the procedure under memo No. 543-SE(B) dated November 27, 2007, the petitioner obtained post graduate degree prior to the above order. The above order has no retrospective effect. Therefore, the above order has no manner of application in case of considering the prayer of the petitioner for granting post graduate scale of pay cannot be sustained in law.

For the reasons discussed hereinabove, the impugned order is quashed and set aside.

10. The respondent No. 3 is directed to extend the benefit of post graduate scale of pay in favour of the petitioner with effect from the date of following last date of examination of Part-II M.Sc. (Bio) Examination within a period of two months from date provided the petitioner is otherwise entitled to get the above benefit.

11. This writ application is disposed of. There will be, however, no order as to costs.