
(2013) 03 CAL CK 0008
In the Calcutta High Court
Case No : Writ Petition No. 8123 (W) of 2013

Dibyendu Mondal

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 28-03-2013

Acts Referred:

West Bengal Schools (Control of Expenditure) Act, 2005 — Section 14(3)

Citation : (2013) 3 WBLR 854

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : Sudip Sarkar, for the Appellant; Biswajit Dey for the State and Sandip Ghosh for the Respondent Nos. 4 and 5, for the Respondent

Judgement

Debasish Kar Gupta, J.—Let affidavit-of-service be kept on record. This writ application is filed by the petitioner for a direction upon the respondent authority to extend the benefit of postgraduate scale of pay in his favour in connection with his service as an Assistant Teacher of Madhupur F.P.A. High School, District-Nadia. The appointment of the petitioner to the post of Assistant Teacher in Science Group with academic qualification B.Sc. (Hons.) in Physics was approved by the respondent No. 3 with effect from March 30, 2006. The petitioner obtained Master Degree in Physics in the year 2006, the last date of examination being August 11, 2006. By a resolution dated May 26, 2006 adopted in the meeting of the Managing Committee of the aforesaid school, permission was granted to the petitioner to sit for the M.Sc. Part-II examination in the year 2006. The above resolution was forwarded to the respondent No. 3 for prior permission by a communication dated August 12, 2009.

2. A prayer is made on behalf of the petitioner to set aside the order passed by the respondent No. 3 under Memo No. 1014(2)/Law/SE dated October 18, 2012.

3. After hearing the learned Counsel appearing for the respective parties as also after careful consideration of the facts and circumstances of this case, I find that the claim of the petitioner is to be considered in accordance with the provisions

of sub-section (3) of Section 14 of the West Bengal Schools (Control of Expenditure) Act, 2005 and the above provisions are 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 decree, in the matter as may be specified by order.

4. The Government of West Bengal issued an order in exercise of the aforesaid power conferred upon it under the provisions of sub-section (3) of Section 14 of the above Act under Memo No. 1979 (5) dated December 12, 2007. Therefore, the above Government Order was not in force at the time of obtaining the aforesaid Master Degree by the petitioner. For the same reason the Government Order No. 593-SE(B) dated November 27, 2007 has no manner of application in this case. Because the petitioner had obtained the M.Sc. qualification prior to issuing of the above order.

5. In view of the above, the impugned order passed by the respondent No. 3 is hereby quashed and set aside.

6. I direct the respondent No. 3 to extend the above benefit to the petitioner from the date following the last date of M.Sc. Part II examination, i.e. August 11, 2006 of the petitioner, within the period of two months from the date of communication of this order.

7. Since no affidavit-in-opposition is filed by the respondents, the allegations made in this petition are not treated to have been admitted by them.

8. I make it clear that I have not entered into the merits of this case and all points are kept open.

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

Urgent photostat certified copy of this order be supplied to the parties, if applied for, subject to compliance with all necessary formalities.