

(2012) 01 CAL CK 0050
In the Calcutta High Court
Case No : Writ Petition 8944 (W) of 2011

Md. Hafizur Rahaman

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 25-01-2012

Acts Referred:

Citation : (2012) 01 CAL CK 0050

Hon'ble Judges : Jyotirmay Bhattacharya, J

Bench : Single Bench

Advocate : Sanghamitra Nandi, for the Appellant; Sadananda Ganguly, T.K. Chatterjee for State, for the Respondent

Final Decision : Dismissed

Judgement

Jyotirmay Bhattacharya, J.—In spite of service no one appears on behalf of the State respondents. Accordingly, this Court directs Mr. Ganguly, learned Counsel who usually represents the State, to appear in this matter on behalf of the State respondents.

2. Vakalatnama filed on behalf of the State respondents in Court today be kept with the record.

3. Let appointment of Mr. Ganguly in this matter be regularized by learned Legal Remembrancer.

4. Let it be kept on record that copy of the writ petition has been served upon Mr. Ganguly in Court today.

5. The petitioner was appointed as an Assistant Teacher in Chatta Rameshwarpur Junior High Madrasah on 1st January 1987. Appointment of the petitioner was also approved by the West Bengal Madrasah Board with effect from 1st January 1987. At the time of his appointment, his educational qualification was MM. The said educational qualification was recorded in the approval letter issued by the West Bengal Madrasah Education Board. Admittedly, the scale of pay which was

admissible to the Assistant Teacher having MM qualification was granted to him with effect from 1st January 1992.

6. Since the scale of pay which was admissible to the Assistant Teacher having MM qualification was not granted to him with effect from the date of his appointment, i.e. from 1st January 1987, the petitioner earlier had moved a W.P. 8944 (W) of 2011 writ petition, being W.P. 12602 (W) of 2010. The said writ petition was disposed of by this Court on 2nd February 2011 whereby the concerned District Inspector of Schools (Secondary Education), South 24 Parganas was directed to consider the grievance of the petitioner and dispose of the same by passing a reasoned order within a time framed period.

7. Pursuant to the direction, passed by this Court, the grievance of the petitioner was considered by the concerned District Inspector of Schools, who, ultimately by the impugned order, rejected the petitioner's claim for grant of scale of pay admissible to Assistant Teachers having MM qualification with effect from the date of his appointment by referring to Government Order No. 33-Edn (B)/1990 dated 7th March 1990 (Revision of Pay and Allowance, 1990). The said decision of the District Inspector of Schools is under challenge in this writ petition at the instance of the writ petitioner.

8. Let me now consider as to how far the concerned District Inspector of Schools was justified in rejecting the petitioner's claim in the facts of the instant case.

9. ROPA 1990 came into operation with effect from 1st January 1986. Since the petitioner was appointed on 1st January 1987, his scale of pay is required to be fixed as per the provisions of ROPA 1990. Serial No. 6 (iii) of Annexure VI in ROPA-1990, under the heading of State Government Sponsored Aided Secondary School Upto Class XII Standard, provides that MM title holder of West Bengal Madrasah Education Board with five years teaching experience will get salary in the scale of 1420-3130. In view of the said provision under the ROPA 1990, this Court is of the view that the said scale of pay was admissible to the petitioner with effect from 1st January 1992 when he acquired five years teaching experience in the said Madrasah. As such this Court is of W.P. 8944 (W) of 2011 the view that the District Inspector of Schools did not commit any illegality by rejecting the petitioner's prayer for revised scale of pay under ROPA 1990 with effect from his date of appointment, i.e. from 1st January 1987.

10. The writ petition, thus, deserves no merit for consideration and is accordingly dismissed. However, there will be no order as to costs.

11. Urgent Photostat certified copy be supplied to the parties, if applied for, on priority basis.