
(2013) 03 CAL CK 0013
In the Calcutta High Court
Case No : W.P. No. 2328 (W) of 2012

Mihir Kumar Mondal

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 07-03-2013

Acts Referred:

Citation : (2014) 2 CHN 338

Hon'ble Judges : Prasenjit Mandal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prasenjit Mandal, J.—Heard the learned Advocates of both the sides. This application is at the instance of a teacher and is filed for enhancement of pay on increase of qualifications. The petitioner was appointed Assistant Teacher in English and he joined the said post on January 16, 1999 in the concerned school. Thereafter, his appointment was approved by the District Inspector of Schools (S.E.). The petitioner then completed his M.A. examination and the Managing Committee granted him permission to appear and also study leave with full pay. Then on passing the examination of M.A. in English in 2005, the petitioner applied for enhancement of pay scale, which was refused by the respondents. Being aggrieved this application has been preferred.

2. Having heard the submission of the learned Advocates of both the sides and on perusal of the materials on record, I find that the petitioner had enhanced his qualification i.e. M.A. in English in the relevant subject through the correspondence courses under the University of Burdwan on taking a prior permission from the concerned District Inspector of Schools (S.E.).

3. It may be recalled herein that the last date of the examination of M.A. Part-II in English was held on September 27, 2005. The result was declared on January 25, 2006.

4. In spite of order in the writ petition being W.P. No. 2312 (W) of 2011, the

concerned District Inspector of Schools did not grant him permission in view of the terms of the Serial No. 3 of G.O. No. 155-SE (B) dated July 13, 1999 and the G.O. No. 735-SE (S) dated June 3, 2002. The petitioner was not allowed the post-graduate scale of pay for his M.A. degree in English.

5. It is pertinent to mention that as per circular dated June 3, 2002 only the teachers having honours degree in the relevant subject acquiring post-graduate degree in the same subject are entitled to post-graduate scale. In the instant case, the petitioner was simply B.A. pass candidate at the time of appointment.

6. Anyway, by the decisions of M.A.T. 1452 of 2012 passed on January 4, 2012 and the order dated January 12, 2013 in A.S.T. No. 10 of 2013 referred to by Mr. Biswaroop Biswas, the Division Bench of this Hon"ble Court has held that since the students are benefited by the enhancement of the degree of the teachers, the teachers are entitled to get the post-graduate scale. I have also considered the other decisions referred to by Mr. Biswaroop Biswas in a bunch, in support of the application. So, in view of the said decisions of the Division Bench which is binding on this score, I am of the opinion that the application shall be allowed.

7. Mr. Biswaroop Biswas, learned Advocate for the petitioner has also referred to the decision of Baishali Banerjee Vs. The State of West Bengal and Others, wherein it has been held that a teacher though not having the honours degree is also entitled to get the post-graduate scale. That case, in my view, is not applicable inasmuch as the concerned subject of that case was Physical Education and there was no honours course in any university. So, this decision will not be applicable in the instant case.

8. Therefore, in consideration of the decision of the Division Bench referred to above, I am of the view that the order dated January 9, 2012 passed by the respondent No. 3 appearing as Annexure P-11 at Page No. 53 cannot be supported and the same must be set aside.

9. Accordingly, the application is allowed.

10. The respondents particularly the respondent Nos. 3 & 4 are directed to grant higher scale of pay in favour of the writ petitioner upon fixing his pay on the basis of his post-graduate qualification w.e.f. September 28, 2005. The respondents are directed to take effective measures so that the benefits of the post-graduate shall may be given to the petitioner within four months from the date of communication of the order.

11. The order dated January 9, 2012 passed by the respondent No. 3 appearing as Annexure P-11 at Page No. 53 stands set aside.

12. However, there will be no order as to costs. Urgent xerox certified copy, if applied for, be given to the learned counsel for the petitioner upon compliance of necessary formalities.