

(2013) 06 CAL CK 0074
In the Calcutta High Court
Case No : Writ Petition 5337 (W) of 2012

Sanjib Chatterjee

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 26-06-2013

Acts Referred:

Citation : (2013) 4 WBLR 132

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : Subir Sanyal and S. Sarkar, for the Appellant;

Final Decision : Disposed Off

Judgement

Debasish Kar Gupta, J.—None appears on behalf of the respondents when the matter is called on. No accommodation is prayed for. Let the affidavit of service be kept on record. This writ application is directed against the alleged arbitrary and illegal action on the part of the respondent authority in fixing the scale of pay of the petitioner at 4500-9700/- at the time of appointment of the petitioner to the post of an assistant teacher of "Work Education" in Bandhgora Kalikrishna Vidyalaya, District Birbhum.

2. The appointment of the petitioner to the above post was approved by the respondent No. 4 with effect from March 31, 2001 under his memo No. 1683 dated June 13, 2001 recording the academic qualification of the petitioner as M.Sc. (Agriculture) in Agricultural Extension, Ph. D. At that point of time, the scale of pay of the petitioner was fixed in Scale No. 7(1) at 4500-9700 prescribed for Teaching and Non-Teaching Staff of the Recognized Aided Non-Government Educational Institution under memo No. 25-SE(B)/IM-102/98 dated February 19, 1999 (hereinafter referred to as ROPA 1998).

3. The petitioner submitted a representation to the managing committee of the school under reference for fixing his scale of pay No. 6 of ROPA 1998 at 4650-10175. The managing committee of the school under reference adopted a

resolution in favour of the petitioner on January 12, 2004 and it was forwarded to the respondent No. 4 on February 13, 2004 (at pages 57 and 59 of the writ application respectively). But the respondent No. 4 did not pay any heed to the same.

4. Having heard the learned Counsel appearing for the petitioner as also after considering the fact and circumstances of this case, I find that admittedly petitioner was possessing the academic qualification of B.Sc. (Hons.) in Agriculture, M.Sc. and Ph.D. degree at the time of his appointment. It is not in dispute that ROPA 1998 was in existence prescribing the scale of pay of Teaching and Non-Teaching Staff of Recognized Non-Government Aided Educational Institution. For the purpose of examining the validity of the claim of the petitioner, Scale Nos. 5 & 7 of ROPA 1998 is quoted below:--

5. After perusing the aforesaid scales of pay, I find that the petitioner was entitled to get his scale of pay at Scale No. 5(ii) at 5,500-11,325 on the date of his appointment instead of Scale No. 7(ii) of the aforesaid ROPA 1998.

6. Since none appears on behalf of the State respondents when the matter is taken up for hearing and no accommodation is prayed for, no affidavit in opposition is filed on behalf of the State respondents, the averments made in the writ application remain uncontroverted. Upon consideration of the claim of the petitioner on the basis of the pleadings of the writ application, I find substance so far as the claim of petitioner is concerned.

7. Therefore, I direct the respondent authority to extend the benefit of Scale No. 5(ii) of ROPA 1998 to the petitioner from the date of his appointment as approved by the respondent No. 4 and to give all consequential benefits to the petitioner. Including that of the post graduate scale of pay as also two additional increments for obtaining Ph. D. degree from the date on which the petitioner became eligible with arrears together with interest @ 9% from the date of such benefit due and payable to him till the date of its actual payment within a period of two months from the date of communication of this order.

8. The respondent authority is further directed to go on paying the remuneration of the petitioner on the basis of the calculation to be made in terms of this order.

9. Let it further be clarified that the rate of interest at the rate of 9% taking into consideration the higher prevailing rate of interest payable by a nationalized bank on Fixed deposit.

10. This writ petition stands disposed of.

11. There will be no order as to costs. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.