
(2018) 08 CAL CK 0047
In the Calcutta High Court
Case No : Writ Petition No. 35154 (W) of 2013

Smt. Ranjana Nath (Das)	Vs	APPELLANT
State of West Bengal And Ors.		RESPONDENT

Date of Decision : 17-08-2018

Acts Referred:

Citation : (2018) 08 CAL CK 0047

Hon'ble Judges : AMRITA SINHA, J

Bench : Single Bench

Advocate : Debjani Sengupta, Tiyaasha Banerjee, Shreya Bhattacharjee, Asim Ganguly, Ram Chandra Guchait

Final Decision : Disposed Off

Judgement

Amrita Sinha, J.

The petitioner was selected for appointment as Mobility Instructor in "Light House for the Blind" an institution sponsored by the Government of

West Bengal and catering to the visually handicapped vide letter dated 18th December 1997 issued by the Principal/Secretary of the said institution.

The Director of Mass Education approved the appointment of the petitioner vide memo dated 14th September 1998 with effect from 20th December 1997.

The President of the Managing Committee of the said institution vide letter dated 3rd January 2000 informed the petitioner that her service as mobility

instructor of the institution had been confirmed since 20th December 1997. The confirmation of the service of the petitioner was adopted by the

Managing Committee in another meeting held on 23rd December 1999.

At the time of appointment the petitioner was a Bachelor of Arts graduate from

the University of Calcutta (1984), completed the training course for orientation and mobility instructor for the visually handicapped (1991-92) and also possessed a diploma for secondary school teacher of the visually handicapped (1992-93). She belongs to the Other Backward Class category. The Deputy Director Academic, Rehabilitation Council of India vide their letter dated 17th April 2006 intimated the President of the institution that the post of Mobility Instructor is to be treated as belonging to teaching category.

The petitioner vide her letter dated 19th June 2002 applied before the institution for according permission to study M.A. (Bengali) from Burdwan University through correspondence course and also for sanction of special (study) leave. The Director of Mass Education Extension directorate vide letter dated 20th September 2002 informed the petitioner that they did not have any objection to allow the petitioner to proceed on leave for appearing in the M.A. examination under Burdwan University if the school authority felt no inconvenience to manage her classes during her absence. Pursuant to the leave granted by the respondent authorities the petitioner appeared in the M.A. examination and cleared the same.

As there was requirement of assistant teacher in the said institution the school authorities requested the Employment Exchange to sponsor the names of eligible candidates for appointment in the sanctioned post of Assistant Teacher in the said institution. Since the petitioner possessed the requisite qualification for being appointed in the said post the petitioner duly applied for the same. The petitioner was duly selected and was appointed to the post of Assistant Teacher in the said institution on 29th August 2002.

The Director of Mass Education Extension vide memo dated 29th November 2002 approved the appointment of the petitioner in the post of Assistant Teacher in the said institution and the Deputy Secretary of Mass Education Extension Department vide their memo dated 20 February 2003 accorded post facto approval of appointment to the petitioner as Assistant Teacher in the said institution with effect from 29th August 2002. The M.A. (Bengali) qualification of the petitioner had been recorded in the service book of the petitioner. The institution in question was thereafter recommended for upgradation from secondary level to Class XII (H.S) standard. On the request of the Principal cum Secretary of the said institution the petitioner took

regular Bengali classes in standard XI and XII.

The grievance of the petitioner is that though she is a Master Degree holder in the subject that she is teaching she is not getting her salary in

accordance with her qualification. She prays that her pay may be fixed in accordance with the qualification of master degree that she possesses. The

petitioner made several representations before the respondent authorities but none of the representations have been considered by them. The

petitioner relies upon several Government circulars wherein it had been specifically laid down that the approved Assistant Teachers of non-

government Secondary Schools who take classes in subject relevant to their respective higher qualification be allowed to draw pay according to their

respective higher qualification.

The Deputy Director of Mass Education Extension Government of West Bengal swore an affidavit-in-opposition wherein he had mentioned that the

minimum qualification for the post in question was graduate degree and when the petitioner was appointed her qualification was graduation. It was

further mentioned that pursuant to the appointment letter issued by the school authority the petitioner joined the post after accepting the terms and

conditions of the offer of appointment.

It has been further stated that the G.O. no. 57-SE(S) dated 27th January 1995 relied upon by the petitioner was issued by the School Education

Department, Secondary Branch which was forwarded to the Mass Education Extension vide no. 180-Edn (MEE) dated 31st. January 2000 were mere

guidelines for granting scale of pay. The said guideline cannot be construed as a decision of the Mass Education Extension Department to follow the

same in the letter and spirit couched therein.

The aforesaid submission of the learned advocate for the State does not hold good inasmuch as the Deputy Secretary, Mass Education Extension

Department Vide memo no. 180-Edn (NEE) dated 31st January 2000 wrote to the Director of Mass Education Extension that as the institutions for

handicapped education belonged to the category of secondary education (as per norms said by the West Bengal Board of Secondary Education) he is

requested to treat G.O. no 57-SE (S) dated 27th January 1995 as a guideline for granting qualification pay to the Assistant Teachers of institutions for

the handicapped. The said memo was issued by the Deputy Secretary pursuant

to a query made by the Director of Mass Education regarding admissibility of higher scale of pay on acquiring higher qualification in respect of teachers of the institutions for the handicapped.

From the aforesaid memo dated 31st January 2000 it is absolutely clear that the Government order issued by the School Education Department for

granting scale of pay according to higher qualification to the Assistant Teachers of Non-Government Secondary School is very much applicable in case of the petitioner.

Â The Government Order no. 57-SE (S) dated 27th January 1995 issued by the School Education Department Secondary Branch specifically directs

that the approved Assistant Teachers who takes classes in subjects relevant to their respective higher qualification shall be allowed to draw pay

according to their respective higher qualification.

In the instant case the petitioner was appointed as Mobility Instructor with a degree in Bachelor of Arts. Thereafter the petitioner took prior

permission from the Director of Mass Education Extension and improved her qualification and acquired Master of Arts degree and her higher

qualification was duly recorded in her service book. The petitioner had given several representations to the respondent authorities requesting for grant

of pay taking into consideration her higher qualification.

The petitioner refers to orders dated 2nd August 1999, 15th June 2009 and 23rd April 2010 whereby and where under the Mass Education Extension

Department had fixed the pay scale of teachers in accordance with their qualification. The petitioner claims that she is similarly situated as those of

the teachers in whose favour the order for fixation of pay according to qualification had been passed. The petitioner prays that similar relief may be

granted in her case.

The petitioner is supported by the decision of this Court in the case of Bimal Kumar Das -vs- State of West Bengal and ors. reported in 2012 (1)

CHN (Cal) 605 where the order of the Director of Mass Education Extension, West Bengal rejecting the prayer of the petitioner for higher scale of

pay had been set aside and order had been passed for payment of all arrears taking into account the higher qualification. After hearing the submissions

made on behalf of both the parties and upon perusal of the materials placed before this court the instant writ

Â petition is disposed of directing the respondent no. 2 to consider the case of the petitioner for according and re-fixing her scale of pay in accordance

with her Master Degree qualification in accordance with law within a period of eight weeks from the date of receipt of a copy of this order after

giving the petitioner or her authorised representative an opportunity of hearing.

The respondent no. 2 is directed to pass reasoned order within two weeks thereafter and forthwith communicate the same to the petitioner. It is

needless to mention that the said respondent will take necessary consequential steps pursuant to the order passed by him without any unnecessary

delay. WP No. 35154 (W) of 2013 is disposed of accordingly. No order as to costs.