
(2001) 12 CAL CK 0044
In the Calcutta High Court
Case No : C.O. No. 5578 (W) of 1995

Sri Balai Ch. Mondal

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 21-12-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 1 CALLT 308 : (2002) 94 FLR 8

Hon'ble Judges : Pratap Kumar Ray, J

Bench : Single Bench

Advocate : Ranjit Kumar Roy, for the Appellant;

Judgement

P.K. Ray, J.—In this writ petition the petitioner has prayed for the following reliefs :

(a) A writ and/or order or orders and/or directions in the nature of a writ of mandamus commanding the respondents, their employees, agents, subordinates and other assignees to forbear for approving and appointing the selection of the respondent No. 8 as Head Teacher of the said Panchkari Radharani Adarsha Vidyalaya and further to forbear from giving any effect or further effect to the resolution dated 10.12.94 of the Managing Committee of the said school and the letter dated 10.12.94 being annexure "E" to the petition.

(b) A writ and/or order or orders and/or directions in the nature of a writ of Mandamus commanding the respondents, their employees, agents and subordinates and other assignees to pay to the petitioner the admissible allowances as officiating Teacher-in-Charge of Panchkari Radharani Adarsha Vidyalaya for the period from March 1. 1990 to December 16, 1994.

(c) A writ and/or order or orders and/or directions in the nature of a writ of Mandamus commanding the respondents, their employees, agents subordinates and other assignees to select and appoint the petitioner as Head teacher of the said Panchkari Radharani Adarsha Vidyalaya and to extend the petitioner of his

legal dues as Head Teacher of the school.

(d) A writ and/or order or orders and/or directions in the nature of a writ of Certiorari commanding the respondents, their employees, agents, subordinates and other assignees to transmit and produce before this Hon'ble Court the records of the case so that conscionable Justices may be done to the petitioner on perusal of the same and by quashing the selection of the respondent No. 8 as Head Teacher of the school and any adverse remarks against the petitioner's career.

(e) Rule NISI in terms of prayers (a), (b), (c) and (d) above.

(f) An interim order restraining the respondent from approving and appointing the respondent No. 8 in the said post of Head teacher of Panchkari Radharani Adarsha Vidyalaya and restraining them from giving any effect to the resolution dated 10.12.94 of the Managing Committee of the said Vidyalaya.

(g) Any other or further order or orders as Your Lordship may deem fit and proper.

2. It is submitted by the petitioner that in terms of the Recruitment and Leave Rules of teachers of Primary School In West Bengal as issued in terms of Notification dated 22nd November, 1991, the petitioner was required to be appointed as Head teacher in the school in question since he has qualified with Primary Teachers Training Certificate and a seniormost teacher in the school. It is contended that while the petitioner was continuing as Teacher-in-charge all on a sudden a junior-most teacher was appointed as Head teacher of the Primary School. An affidavit-in-opposition has been filed by the concerned Primary School Council wherein it is contended that the petitioner is not qualified due to lack of training qualification as required under the statute and accordingly the petitioner's name was not empanelled in the panel of Head Teacher.

3. The learned advocate for the petitioner, however, submits that the certificate Issued by the Teachers Training Institution, Corporation of Calcutta on 15th February, 1976 relating to the Teachers Training Final Examination in junior course is a valid training certificate as required under Rule 18 of the Recruitment and Leave Rules. Under the Recruitment and Leave Rules, 1991, the definition of trained candidate is stipulated in Clause 2(n) which provides that certificate must be issued either by the Director of School Education, West Bengal or by any other officer empowered in this behalf by the State Government which would be considered as training certificate. The relevant provision of Clause 2(n) is set out in extenso:

"2(n) "Trained candidates" means a candidate who has obtained a junior Basic Training/Primary Teachers" Training Certificate of equivalent issued under the authority of the Director or any other officer empowered in this behalf by the Government."

4. Nowhere in the petition, the petitioner has pleaded that the mark-sheet Issued

by Corporation of Calcutta regarding Teachers Training Final Examination In Junior Course is equivalent to the certificate of Junior Basic Training/Primary Teachers" Training Certificate. But in reply, it has been stated that such certificate is at par to the said training qualification. Since It is the case of the council that the petitioner due to lack of training qualification could not be placed In the panel of Head Teacher, point as is required to be adjudicated is whether the certificate Issued in favour of the petitioner would be considered as a training certificate in terms of the definition of trained candidates under Clause 2(n) of Recruitment and Leave Rules, 1991. Such point cannot be decided here. The writ Court will not decide the question of equivalency of another certificate and/or degree in comparison to other certificate and/or degree. It is settled legal position that the writ Court is not an expert body to determine such. In that view of the matter, no relief could be granted to the petitioner unless and until the certificate of the writ petitioner is considered as qualified training certificate in terms of the Recruitment Rules of 1991,

5. However, this writ petition Is disposed of by directing the Director of School Education, West Bengal to decide the question as raised in the writ petition Including the question as to whether the mark-sheet Issued by the Corporation of Calcutta, would be considered as sufficient training qualification and/or whether the same would be considered as equivalent to Junior Basic Training/Primary Teachers" Training Certificate for the purpose of considering the petitioner's qualification as training qualification in terms of clause 18 of the Recruitment and Leave Rules, 1991. Such determination be made after hearing the parties namely the School Council as well as the petitioner upon giving notice to that effect within a period of 8 weeks from the date of communication of this order. Such decision to be communicated to the petitioner within 2 weeks thereafter.

The writ petition is accordingly disposed of without any order as to costs.