
(2018) 08 CAL CK 0046
In the Calcutta High Court
Case No : Writ Petition No. 13896 (w) of 2015

Tandra Chattopadhyaya Chatterjee	Vs	APPELLANT
State of West Bengal And Ors.		RESPONDENT

Date of Decision : 17-08-2018

Acts Referred:

Citation : (2018) 08 CAL CK 0046

Hon'ble Judges : AMRITA SINHA, J

Bench : Single Bench

Advocate : Debjani Sengupta, Tiyaasha Banerjee, Shreya Bhattacharjee, Tapan Kumar Mukherjee, Swapan Kumar Pal

Final Decision : Disposed Off

Judgement

Amrita Sinha, J.

Pursuant to an advertisement published in the newspaper and after following the recruitment process the petitioner was selected and appointed in the

post of assistant teacher in girls's section in Calcutta Deaf and Dumb School on 10th January 1991. The petitioner was a graduate (B.Sc.) at the

time of appointment. She also had training in teaching of the deaf.

In response to an advertisement published in the daily newspaper the petitioner applied for the post of Head in Charge (girls's section) in the said

school on 21st. November 1992. The petitioner was selected to the said post and the school issued appointment letter in her favour on 31st. March

1993. The appointment of the petitioner was duly approved by the Director of Mass Education Extension vide Memo dated 29th June 2001.

The school in question is sponsored by the Government of West Bengal and was earlier recognised up to class 8th standard and subsequently

upgraded to secondary school level and recognised by the Board of Secondary Education in the year 2006. The grievance of the petitioner is that

though she is a graduate with Bachelor of Science degree and is teaching Life Science in the school but the respondent authorities are granting her

under-graduate scale of pay. The said act of the respondent authorities is contrary to the Rules.

The petitioner relies upon the memo no. 57-(SE) dated 27th. January 1995 issued by the Department of School Education wherein it had been

indicated that the approved assistant teacher in non-government secondary schools and Madrasahs who are taking classes in subjects relevant to their

respective higher qualification be allowed to draw pay according to their respective higher qualification. The petitioner also refers to the notification

no. 33-Edn (b) dated 7th March 1990 wherein it had been specifically indicated that all teachers and librarians of secondary schools who have

improved will improve their qualification or who were appointed with higher qualification in the subject or group relevant to their teaching/appointment

shall get higher scale of pay appropriate to their qualification with effect from 1st January 1986 or the date of improving qualification whichever is

later. The petitioner prays that necessary directions be issued upon the respondent authorities to grant scale of pay in accordance with the graduation

qualification of the petitioner.

The petitioner made several representations before the respondent authorities ventilating her grievances and making the aforesaid prayer but none of

the representations have been considered by the respondent authorities. Being aggrieved by the inaction on the part of respondent authorities to

redress her grievances the petitioner filed the instant writ petition before this Honâ??ble court. The learned advocate appearing for the State

respondent submits that the petitioner was appointed with under-graduate scale of pay and at the time of acceptance of her appointment the petitioner

did not raise any objection towards the same. He submits that the petitioner cannot be aggrieved with non-granting of her graduate scale of pay as she

had accepted her letter of appointment without raising any objection thereto.

After hearing the rival contentions made on behalf of both the parties an open perusal of the materials placed before this Court it appears that the

petitioner was a graduate when the appointment letter was issued in her favour.

Though she had accepted the same without any protest the same ought not to stand in the way of granting the scale of pay to the petitioner in accordance with the qualification which she possessed. The government notifications support the case of the petitioner. It further appears that all the teachers in the said school are enjoying the scale of pay in accordance with their educational qualification. The petitioner is the only candidate who has been discriminated and she had been paid salary in under-graduate scale.

This issue had been taken for consideration by this Honâ??ble court in several cases and necessary direction had been passed upon the respondent authorities to accord scale of pay in accordance with the educational qualification of the petitioners therein. The petitioner has relied upon several such orders passed by various benches of this Honâ??ble court which have been annexed to the writ petition as well as in the affidavit in reply. In compliance to the orders passed by this court the scale of pay of those petitioners had been re-fixed in accordance with their higher qualification.

There is no reason why the petitioner should be treated differently. The petitioner being similarly circumstanced with the petitioners in the cases

annexed to the writ petition she is legally entitled to similar benefit. Applying the above principle as laid down in the aforesaid cases the instant writ

petition is disposed of directing the Director of Mass Education Extension being the respondent no. 2 to consider the case of the petitioner in

accordance with law for according and re-fixing the scale of pay commensurate to her graduation qualification within a period of eight weeks from the

date of receipt of a copy of this order after giving the petitioner or her authorized representative an opportunity to hearing and pass a reasoned order

within a period of two weeks thereafter and communicate the same to the petitioner forthwith. The said respondent will re-fix the scale of pay and

take consequential steps pursuant to his order immediately thereafter.

WP No. 13896 (W) of 2015 stands disposed of with the above observations. No order as to costs. Urgent certified photocopy of this judgement, if

applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.