
(2012) 07 CAL CK 0192
In the Calcutta High Court
Case No : Writ Petition No. 10615 (W) of 2012

Wajihuddin Ahmed

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Citation : (2013) 1 CHN 564

Hon'ble Judges : Patherya, J

Bench : Single Bench

Judgement

Patherya, J.—This writ petition has been filed by the persons, who are working as Assistant Primary School Teachers and granted appointments from 1978 till 1987. Their case is that as they are the seniormost Teachers in their Schools, they ought to be considered for appointment as Head Teachers. Each of them has satisfied the criteria for appointment of Head Teacher, as they have undergone training either in 2003-2004 from the recognized Institutions or prior there. As the training qualification is valid and on that basis the names were also included in a provisional panel prepared for appointment of Head Teachers, their names from the subsequent panel, could not be omitted. It is this revised panel of 14th February, 2012, which has compiled the petitioners to come to this court. A report has also been filed and in the said report the order dated 15th June, 2012 has been annexed, wherefrom it will appear that those Primary School Teachers, who were appointed before 3rd September, 2001 having Madhyamik or equivalent qualification with 1 Year PTT Certificate, will be eligible for promotion as Head Teacher subject to seniority and other statutory conditions. The petitioners are not only senior but also have complied with all statutory conditions and therefore, the omission of their names from the subsequent panel, is unjustified and direction be given to the authorities to include their names in the panel by revision of such panel. Counsel for the State respondents have filed a Report in the form of an affidavit and the specific case made out therein is that the D.P.S.C., Howrah in August, 2009 had requested the Joint Secretary, School Education Department, Government of West Bengal to convoy

his clear direction with regard to the matter as to whether the Teachers, who had obtained Training Certificates before 1993 would be entitled to appointment as Head Teacher and it is in reply to the said letter that a clarification was issued on 22nd July, 2010. In the case of Tulsi Bakshi, it was held that those Institutions, which have not been recognized by the N.C.T.E. Authority, would not be entitled to admit students for the training programmes. The cut-off year was subsequently clarified in the case of Hiranmoy Bhowmik as being 2005-2006. In the order dated 15th June, 2012, it has been specifically stated in paragraph-11 that those Primary School Teachers appointed before 3rd September, 2001, would be entitled to promotion as Head Teacher. Therefore, orders be passed, as may be thought fit in the light of the aforesaid.

2. Counsel for the respondent No. 3 submits that it is only in view of the letter dated 22nd July, 2010 issued to D.P.S.C., Howrah that the revised panel was prepared. In the panel prepared initially, the names of the petitioners were included and it is in view of the said letter that a revised panel was prepared on 14th February, 2012. In fact, from the order dated 11th November, 2002, recognition has been given to those Institutions, wherefrom training has been obtained for one year for the session 2003-2004 onward. As the petitioner Nos. 1 and 2 have completed their training in 2003-2004 and 2005, may entitle them to promotion. The petitioner Nos. 3 and 4 have obtained training in 1998-99 and in 2000. Therefore, the order dated 11th November, 2002 will not be applicable.

3. Having considered the submission of the parties, as the petitioners are four in number, the deficit Court Fees have not been paid till today. Therefore, the writ petition ought to be restricted to the petitioner No. 1 alone. But it has been submitted by the Counsel for the petitioners in course of hearing that the deficit stamps have been obtained and are ready for deposit. Accordingly, an opportunity is given to the petitioners to put in the deficit Court Fees forthwith.

4. Undoubtedly, the petitioners were appointed as Assistant Primary School Teachers in 1978, 1981, 1986 and 1987 respectively. By virtue of the number of years in service, the petitioners acquired seniority and became entitled to one of the incidents of service being promotion as Head Teachers. One of the criteria needed for appointment of Head Teacher is the training qualification and although a provisional panel was prepared whereby the names of the petitioners were enlisted as eligible for promotion as Head Teachers, in the revised panel issued on 14th February, 2012, their names have been deleted. The reason for such omission is the clarificatory letter issued on 22nd July, 2010 by the State department to the D.P.S.C., Howrah. This clarification given, as will appear from the Report filed by the State respondents, is based on a query raised by the D.P.S.C. Howrah with regard to the training obtained after 1993. This would be applicable only in the case of the petitioner Nos. 3 and 4, as they have obtained training in 1998-1999 and 1999-2000 respectively. But it would not apply to the petitioner Nos. 1 and 2, as they have obtained Training Certificates from the Institutions, which have been recognized under the N.C.T.E. Act, 1993 in 2004

and 2005 respectively. Therefore, the petitioner Nos. 1 and 2 are the holders of valid Training Certificates. As regards the petitioner Nos. 3 and 4, the clarification sought was by the D.P.S.C., Howrah and in answer to such clarification, the letter dated 22nd July, 2010 was issued. The judgment in Hiranmoy Bhowmik's case was delivered on 26th February, 2010 and the issue has been put at rest and all those Certificates, which had been issued by the Training Institutes prior to 2005-2006, were considered to be valid and existing. In the case of the petitioner No. 3, the Training Certificate had been issued in 1998-1999. Therefore, such Training Certificate is a valid Certificate. In the case of the petitioner No. 4, such Certificate was issued in 2000. Therefore, both the petitioner Nos. 3 and 4, by virtue of Hiranmoy Bhowmik's case, were eligible for appointments Head Teachers on promotion.

5. Accordingly, the revised panel dated 14th February, 2012 in so far as it proceeds, on the basis of the letter dated 22nd July, 2010 and has not considered the case of Hiranmoy Bhowmik, cannot be sustained in the eye of law and the same is accordingly set aside.

6. This, however, will not prevent the respondent No. 3 from preparing a panel afresh in respect of the Head Teachers taking into consideration the seniority and the teachers' qualifications of the petitioners in the light of the decision in Hiranmoy Bhowmik's case and the prevailing Rules and Regulations provided they satisfy all eligibility criteria and in accordance with law. The said exercise be completed within six weeks from the date of receipt of this order.

7. It is made clear that orders have been passed on this writ petition on the basis of non-applicability of the letter dated 22nd July, 2010 and the decision taken in Hiranmoy Bhowmik's case.

8. As regards the petitioner Nos. 1 and 2, as they have undergone training from the Institutions recognized by the order dated 11th November, 2002 in 2004 and 2005 respectively, it goes without saying that their names also be considered for appointment as Head Teachers on promotion in accordance with law.

9. With the aforesaid directions, this writ petition is disposed of.

10. As no affidavit-in-opposition has been filed by the respondent No. 3, the allegation contained in the petition is not admitted. In case if it is found at the time of signing of this judgment that the deficit Court Fees have not been deposited and the receipt thereof has not been produced to the Assistant Court Officer, the order be restricted to the petitioner No. 1 alone.

Urgent certified Photostat copy of this order, if applied for, be given to the parties subject to compliance with all requisite formalities.