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(2011) 2 CALLT 68

Calcutta High Court

Case No: Writ Petition 17003 (W) of 2010

Amarendra Narayan Pal	APPELLANT
Vs	
Maneswarpur Shivadurga Samity High School	RESPONDENT

Date of Decision: Feb. 11, 2011

Citation: (2011) 2 CALLT 68

Hon'ble Judges: Jyotirmay Bhattacharya, J

Bench: Single Bench

Advocate: Uttam Majumder and Debasish Kundu, for the Appellant; Kumaresh Dalal, for the Respondent

Final Decision: Allowed

Judgement

Jyotirmay Bhattacharya, J.
The Petitioner was appointed as an Assistant Teacher in Social Science Group in Maneswarpur Sivadurga Samity High School in the District of North 24 Parganas with effect from 13.10.2007. The appointment of the Petitioner as Assistant Teacher in the said school was approved by the concerned District Inspector of School (SE). At the time of his appointment, the educational qualification of the Petitioner was BA with History.

2. Before joining such service, the" Petitioner got himself enrolled as a candidate of the Directorate of Distance. Education under Rabindra Bharati University in the subject of History for the session of 2007-2008.

3. After joining his service in the said school, the Petitioner submitted an application to the Secretary of the Managing Committee of the said school seeking permission to continue with his studies in the post graduate course from Rabindra Bharati University.

4. The Petitioner''s prayer for grant of such permission was not entertained by the Managing Committee of the said school. The decision of the Managing Committee of the Said School in this regard was communicated to the Petitioner by the letter written by the Secretary of the said school on 20.07,2010 being annexure P-3 to this writ petition at page 23.

5. The said decision of the Managing Committee of the Said School is under challenge in this writ petition at the instance of the Petitioner.

6. On perusal of the contents of the letter written by the Secretary of the Managing Committee of the said school this Court finds that the Managing Committee of the said school refused to entertain the Petitioner''s application for grant of such permission by referring to an office memorandum issued by the Joint Secretary of the State of West Bengal under Memo No. 593-SE(B) dated 27.11.2007.

ES/O/B/1M-98/2007

7. Let me now consider as to how far the said office memorandum referring to which the Petitioner''s prayer for grant of permission was not entertained by the Managing Committee of the said school, is applicable in the facts of the instant case. On perusal of the said office memorandum issued by the Joint Secretary, State of West Bengal, this Court finds that the said office memorandum provides that the teachers who are teaching in different State aided Schools will have to take prior permission from the Managing Committee/Ad-hoc Committee/Administrator as the case may be to enrol themselves and to appear in any examination for enhancement of educational qualification. The said circular also provides that the Managing Committee being competent authority in such cases will take a decision in its next meeting and convey its decision to the teacher concerned immediately.

8. This particular Clause, in my view, is not applicable to the Petitioner as the Petitioner had got himself admitted in post graduate course in a distance mode of education in the Rabindra Bharati University before joining his service in the said school.

9. The said office memorandum also provides that when a teacher wants to claim additional increment/higher scale of pay etc. for obtaining such higher qualification, such teacher is required to seek prior permission from the concerned District Inspector of Schools through the Managing Committee of the said school.

10. Though the Petitioner did not mention in his representation submitted to the Managing Committee of the said school that he will not claim additional increment or higher scale of pay after enhancement of his qualification but in paragraph 8 of this writ petition, the Petitioner categorically stated that he would not claim any pecuniary benefit even after enhancement of his qualification.

11. Thus, this Court is of the view that if any teacher having graduate degree wants to enhance his educational qualification from any distance course without effecting the academic interest of the students of such institutions and without disturbing the classes allotted to such teacher in the routine, and also by giving up his claim for additional increment or higher scale of pay for the enhanced degree, the prayer for continuation of his studies in the post graduate course in distance mode of education cannot be disallowed by the Managing Committee of the school on the basis of the office memorandum as referred to above. In fact right to education and/or right to improve educational qualification cannot be denied to any teacher who wants to improve his educational qualification without disturbing the academic interest of the students of the school and also without increasing any financial burden upon the employer or the State. However, he is required to take leave from the appropriate authority during the period of examination and if any such prayer is made, the concerned authority should consider such prayer sympathetically, as the future of such teacher depends upon his higher educational qualification. That apart one must not forget that it is ultimately the students who will be benefited, if a teacher increases his educational qualification.

12. Under such circumstances, this Court directs the Managing Committee of the said school to consider the Petitioner"s prayer for continuation of his studies in the post graduate course in the distance mode of education in the light of the observation made hereinabove provided the Petitioner submits a declaration before the Managing Committee of the said school declaring within two weeks from date that he will not claim any incremental benefit and/or higher scale of pay for his enhanced qualification. In the event such a declaration is submitted by the Petitioner before the Managing Committee of the said school within the aforesaid period, the Managing Committee of the said school will take the ultimate decision in this regard within four weeks from the date of submission of his declaration by the Petitioner.

13. The writ petition is thus disposed of.

14. Learned Advocate for the Petitioner is permitted to take down the gist of the order for communication to the concerned authority and the concerned authority is thus directed to act upon such communication without insisting upon production of the certified copy of this order.

Urgent Xerox certified copy of this order, if applied for, be supplied to the learned advocate for the Petitioner immediately.