
(2013) 06 CAL CK 0018

Calcutta High Court

Case No: Writ Petition No. 25033 of 2012

Md. Imdadul Hoque

APPELLANT

Vs

The State of West
Bengal and Others

RESPONDENT

Date of Decision: June 27, 2013

Citation: (2013) 4 WBLR 893

Hon'ble Judges: Debasish Kar Gupta, J

Bench: Single Bench

Advocate: Partha Bhattacharya and S.S. Ahmed, for the Appellant;

Final Decision: Disposed Off

Judgement

Debasish Kar Gupta, J.

None appears on behalf of the respondents in spite of service of copies of this writ application upon them. Let affidavit of service filed be kept on record.

2. This writ application is filed by the petitioner assailing an order passed by the respondent No. 6 under Memo No. 64/SD/G, dated January 18, 2011.

3. By virtue of the impugned order, the benefit of graduate scale of pay was extended in favour of the petitioner with notionally with effect from January 01, 2006 (i.e. the date of joining in the service) and actual financial benefit with effect from April 01, 2008.

4. Having heard the learned Counsel appearing for the petitioner as also after considering the facts and circumstances of this case, I find that the name of the petitioner was recommended by a communication dated March 19, 2002 by the West Bengal Regional School Service Commission, Northern Region for appointment to the post of Assistant Teacher in Arabic (M.M.) recording his academic qualification "Kamil" in the above letter of recommendation. The appointment of the petitioner was approved by the respondent No. 6 under his Memo No. 531/1(3)/g, dated May 14, 2002 with effect from April 06, 2002.

5. Since the graduate scale of pay was not given to the petitioner, he filed an application under Article 226 of the Constitution of India bearing W.P. No. 11732 (W) of 2004 and the same was disposed of on September 22, 2004 with a direction upon the respondent No. 6 to consider the claim of the petitioner of graduate scale of pay in accordance with law. In compliance of the above order, the impugned order was passed.

6. After perusing the Notification No. 1040-MD, dated July 17, 2008 issued by the Government of West Bengal Minority Affairs and Madrasa Education Department, I find that the degree of "Kamil" is equivalent to bachelor degree. It is not in dispute that the petitioner possessed the aforesaid "Kamil" degree at the time of his appointment. Therefore, I find no reason to deprive him from enjoying the benefit of graduate scale of pay from the date of his appointment.

7. In view of the above observation, the impugned order cannot be sustained in law so far as the extension of benefit to the petitioner notionally with effect from January 01, 2006 was concerned and the impugned order is quashed and set aside partially to that effect.

8. I direct the respondent No. 6 to extend the benefit of graduate scale of pay in favour of the petitioner from the date of approval of his service, i.e. April 06, 2002 within a period of two months from the date of communication of this order.

9. This writ application is, thus, disposed of.

10. There will however, no order as to costs. Urgent photostat certified copies of this order, if applied for, be given to the parties on priority basis.