



**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

Present:

**The Hon'ble Justice Rai Chattopadhyay**

**WPA 80 of 2018**

**Ram Avatar Yadav**

**Vs.**

**The State of West Bengal & Ors.**

**For the Petitioner**

: Mr. Kamalesh Bhattacharya

: Mr. Ashim Halder

: Mr. Anirban Saha

**For the State Respondent**

: Mr. Supriyo Chattopadhyay, Id. AGP

: Ms. Iti Dutta

**Judgment on**

**: 22.09.2025**

**Rai Chattopadhyay, J. :-**

1. The writ petitioner, who is an organising teacher of the school, namely Naihati Ananda Swarup High School, and appointed therein on and from January 2, 1984 [vide the appointment letter dated January 1, 1984], has come up for the fourth time before this Court to seek redress of her grievance that in spite of her being duly qualified and sanctioned vacant post being available in the said upgraded high school, her service has not been approved as against the said sanctioned vacant post, by the respondent authority. In this writ petition, she has challenged the order of the respondent/District Inspector of Schools (Secondary Education), Barrackpore, 24 Parghanas North dated October 17, 2017, and has prayed for the relief that the respondent/District Inspector of Schools be directed to approve her appointment as an organising assistant teacher in the said school, following the government notification No. 1224 and



No.117, with effect from the date of upgradation of the school, that is, May 1, 2001.

2. The petitioner has been represented by Mr. Bhattacharya, learned advocate, in this case. He has firstly submitted about appointment of the petitioner through a duly formulated recruitment process. Hence, according to the petitioner, there would not be any impropriety as regards the process by dint of which she has entered into the service. Mr. Bhattacharya, learned advocate, has thereafter referred to the fact that since appointment, the petitioner has been continuously and uninterruptedly serving the school with utmost sincerity and diligence. The other relevant points as put forth on behalf of the writ petitioner are that the petitioner's name appears at the 7th place in the list of organizer assistant teachers of the said school, in the report of District Level Inspection Team [in short 'DLIT']. It has been submitted that, hence at the time of recognition of the said school as a Junior High School with effect from January 1, 1986 [vide order dated February 13, 1987], which implied sanction of 6 posts of assistant teachers therein, the writ petitioner was not accommodated.
3. The petitioner says that since the recognition of the school, various other incidents happened, which are worth mentioning and have relevance with the prayer of the petitioner in the instant case. Firstly, that the school authority had applied for grant of two additional posts of assistant teachers in the school, for the language as well as social science group. Be it mentioned here that the writ petitioner has been working as a teacher of subject geography, pertaining to the social science group. Mr. Bhattacharya, learned advocate, would submit that even at the said point of time the school was entitled to the 2 more posts of assistant teachers therein, as per the provisions of the 'Grant-in-Aid Rules'. He says that the 'Grant-in-Aid Rules' provide for sanction of 8 posts of assistant teachers in a school where 6 units were in function. That, since at the said relevant points of time the said school was running with 6 units, therefore in terms of the 'Rules'



as above, additional 2 posts of assistant teachers were required to be approved by the authority for the said school. The respondent/authority, in terms of the order of this Court dated June 28, 1994, has considered such prayer and rejected the same on October 6, 1994. However, later on in an order dated January 5, 2004, in writ petition No. WP 30621 (w) of 1997, this Court has made certain directions. Following the same, the respondent has sanctioned and created 2 additional posts, vide notification dated December 26, 2005.

4. That in 1994, the managing committee of the school again prayed for sanction of one post of assistant teacher in the social science group in the school, for the subject geography, and for approval of the petitioner in the said post. This time also, the prayer as above has remained unanswered. Further writ petitions were filed by the petitioner but to yield no redress for the petitioner, as on one or other pretext, her prayer for approval in service has never been considered favourably by the respondent authority.
5. Amidst all as above, the said school was upgraded and granted the status of Class-X High School, on and from May 1, 2001. Mr. Bhattacharya would say that upgradation of the school to a High School has neutralised the requirement for any further formal sanction of post for the school, in the group, as was prayed for earlier. He says that upgradation of the school should automatically follow the sanction of 6 more posts of assistant teacher, in terms of the existing rules and the staff pattern of the school. That hence, the question of sanction of additional post would not be pertinent anymore.
6. According to the writ petitioner, the impugned order dated October 17, 2017 is perverse and illegal. That, allegedly, the respondent has neither considered the government circulars or the rules existent, nor



has considered the facts which were on record. Hence, according to the petitioner, the impugned order as above is liable to be set aside.

7. The respondent's stand is akin to that as held by the District Inspector of the Schools (Secondary Education), Barrackpore, 24 Parganas North, in his order dated October 17, 2017. Ms. Dutta, learned advocate representing the respondent/State, has submitted that the 2 additional posts created vide notification dated December 26, 2005, remain vacant.
8. The status of the writ petitioner as an organising teacher of the said school and her service therein being uninterrupted and continuous from the date of her appointment on January 2, 1984, has remained as undisputed facts in the instant case. The respondent has held in the said impugned order dated October 17, 2017, that on the date of recognition of the school as a Junior High School, only 6 posts of assistant teachers would be sanctioned whereas the petitioner remained in the 7th position, as an organising teacher of the school, as per the DLIT report. Hence, she should not be eligible for being approved as an assistant teacher of the said school.
9. For the reasons as above, the respondent/State has sought an order of dismissal of the instant writ petitioner.
10. Pertinent is to note that some important facts are neither dealt with by the respondent/District Inspector of Schools, in the said impugned order nor have been denied by the same. As for example, the very fact of upgradation of the school to a class-X High School with effect from May 1, 2001. On upgradation, a school will be entitled to sanction of new teaching posts. A close observation of the provisions made in G.O. No.772-Edn.(S) dated the 8th July, 1974 and Circular No. 29-Edn (S) dated 14<sup>th</sup> January, 1994 shall further fortify the same.



11. Similarly, and taking cue from the earlier notifications as mentioned above, the G.O. No. 237-Sc/G dated 10<sup>th</sup> February, 1994 has made provision that in case of an organising teacher, not yet approved, the provisions thereof would make him/her entitled for approval in an appropriate post, sanctioned and created with upgradation of the Institution.
12. In case of the respondent school, therefore, the vacancies are available from both the ways, firstly, due to creation of the two posts pursuant to the order of this Court dated January 5, 2004. Secondly, with effect from the date of upgradation of the school as a class-X High School from May 1, 2001.
13. As a matter of fact, the moot argument put forth on behalf of the writ petitioner is that with effect from the date of upgradation of the school as a Class-X High School from May 1, 2001, the petitioner would be entitled to have the additional post automatically stand sanctioned due to the upgradation of the school. The Court finds that as regards this contention/claim of the written petitioner, the respondent/State has virtually not taken any stand at all.
14. Another G.O. No. 1224-edn (S) dated 5<sup>th</sup> December, 1987 may be noted in this regard, which has provided for the three criteria, fulfilment of which would be necessary, in case of approval of an organising teacher. Those are as follows:

***“(a) the names of such teachers or non-teaching staff were recorded in the Inspection Report leading to such recognition;***

***(b) such teaching and non-teaching staff possessed prescribed minimum qualification for the posts including academic and age qualification at the time of initial appointment;***

***(c) that such teaching staff conform to the staff pattern prevailing at the time of initial appointment.”***



15. This is quite evident on record and undisputed. In this case, the petitioner duly fulfils all the criteria as mentioned in the said G.O. No. 1224-edn (S) dated 5<sup>th</sup> December, 1987 as mentioned above.
16. Therefore, the Court finds that on the touchstones of availability of the sanctioned vacant post and also due fulfilment of the minimum required eligibility criterion, for being approved in the post of an assistant teacher and being one of the organising teachers of the said school, the writ petitioner has emerged as qualified, eligible, and entitled for being approved in the said school as an assistant teacher.
17. On the other hand, the impugned order suffers from absolute non-application of mind, in so far as the respondent has failed to apply therein any consideration whatsoever, as regards the effect of upgradation of the school to a class-X High School from May 1, 2001. This is more relevant as the ground on which the respondent has founded its decision to reject the petitioner's approval in the post is with regard to non-availability of any sanctioned vacant post for her, she being the 7<sup>th</sup> candidate mentioned in the DLIT report. At the cost of reiteration, it can be said that with the upgradation of the school, the number of sanctioned vacant posts automatically enhances and the reason as above of non-availability of any post for the petitioner immediately becomes redundant and irrelevant. This way, the court finds the impugned order not only to be a perverse one but also not in conformity with the rules existent and thus arbitrary and illegal. The court finds the same liable to be set aside.
18. For all the reasons as discussed above, the instant writ petition No. WPA 80 of 2018 is allowed with the following directions:

**(i)** The impugned order dated October 17, 2017, is set aside;



**(ii)** The writ petitioner is entitled to be approved in the post of an assistant teacher in the school as named above, as against a post which stands automatically sanctioned with upgradation of the school to a class-X High School with effect from May 1, 2001;

**(iii)** Hence the respondent No.3/District Inspector of the Schools (Secondary Education), Barrackpore, 24 Parghanas North is directed to approve the service of the writ petitioner in the said school, with effect from May 1, 2001;

**(iv)** The respondent No.3/District Inspector of the Schools (Secondary Education), Barrackpore, 24 Parghanas North is further directed to make appropriate pay/pension (as the case may be) fixation effective for the writ petitioner from the date May 1, 2001 and pay salary/pension (as the case may be) accordingly;

**(v)** Direction made as above shall be complied with within a period of six weeks (excluding holidays), from the date of communication of a copy of this judgment;

**(vi)** Arrear amount of pay and/or pension (as the case may be), if any, shall be disbursed to the writ petitioner, within a period of three months from the date of communication of a copy of this judgment.

19. Writ petition No. **WPA 80 of 2018** with all connected applications, if any, stands disposed of.
20. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Rai Chattopadhyay, J.)**