

15.12.2020
D/L No.20
Court No.25
s.biswas

WPA 581 of 2019

Suchitra Pramanik
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Anirban Majumder

... .. for the petitioner

The present writ petition has been preferred primarily praying for the following relief:

“A Writ of and/or in the nature of Mandamus commanding the respondents, each one of them, their servants, agents to appoint the petitioner to the post of Lady Matron in the said High School;”

Mr. Majumder, learned advocate appearing for the petitioner submits that the petitioner was appointed to a Group ‘D’ post (Lady Attendant) in the Naogan High School (in short, the said school) by a letter dated 17th August, 1993 issued by the respondent no.6. Since then the petitioner is working in the said school till date. In the midst thereof, the said school has been recognized as a junior high school and subsequently upgraded to a 10th class high school *vide* memo dated 10th March, 2015. Upon such upgradation, a regular vacancy occasioned in a Group 'D' post. Accordingly, the respondent no.5 by a memo dated 6th May, 2015, requested the respondent no.3 to take appropriate steps for filling up the said post. As a

regular vacancy has occasioned and as the petitioner is discharging her services in a Group 'D' post in the said school, she submitted a representation on 1st February, 2017 to the respondent no.6 with a prayer to appoint her in the vacant post.

Mr. Majumder argues that as the petitioner was appointed to meet the exigencies and in the interest of students at large and as she had continued in such service for a period of more than 20 years, she is entitled to be appointed in the vacant post of Group 'D' staff, which has occasioned due to the upgradation of the said school.

No one appears on behalf of the State respondents.

It is well settled that the direction for permanent appointment should not be granted by the Court in exercise of the authority under Article 226 of the Constitution of India unless the employee claiming regularization or absorption has been appointed, in accordance with the relevant rules.

The petitioner is claiming appointment to the post of Group 'D' staff on the basis of the service rendered in the said school since the year 1993. Mere continuance of service on *ad hoc* basis does not entitle the petitioner to permanent appointment. In the event such direction is passed, it would simply reinvigorate a class of claim which has been shut out permanently by the judgment delivered

in the case of *State of Karnataka vs. Uma Devi-III* reported in 2006 (4) SCC 1.

For the reasons discussed above, this Court is unable to grant relief, as prayed for, by the petitioner and the writ petition is, accordingly, dismissed.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on completion of all necessary formalities.

(Tapabrata Chakraborty, J.)