

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:

The Hon'ble Mr. Justice Ravi Krishan Kapur

W.P.A. NO.13499 of 2014

Prabir Bhowmick & Ors.

-vs-

State of West Bengal & Ors.

with

W.P.A. No. 14516 of 2014

Aloke Kumar Maity & Ors.

Vs

State of West Bengal and Ors.

For the Petitioners : Mr. Soumen Kr. Dutta
Mr. Sabyasachi Bhattacharjee
Mr. Sourav Dutta

For the State : Mr. Kalimuddin Mondal
Mr. Pranab Halder

For the Respondent No.6 : Mr. Suman Saha

Heard on : 11.03.2020

Judgment on : 17.12.2020

Ravi Krishan Kapur, J.:

1. The petitioners in both the writ petitions assail an order dated 3 April 2014 passed by the Secretary, Government of West Bengal, Department of Technical Education & Training.

2. The petitioners are the selected teaching staff in the vocational stream of the Barnan High School (H.S.), Barnan, District – Purba Mednipur. The school was initially recognised as Barnan High School. However, subsequently it was upgraded as a Higher Secondary school having a vocational stream. Thereafter, certain posts in different categories were created.
3. By a Government order being G.O No.179-TET(Poly)/14D-21/2005(Pt.) dated 22nd February 2006, the Government of West Bengal prescribed the eligibility criteria of the teachers or instructors for the vocational stream. Subsequently, an advertisement was also published by the school authorities inviting candidates to participate in the selection process as vocational instructors.
4. Thereafter, the petitioners appeared for an interview and secured a position in the panel. Subsequently, the school authorities issued appointment letters to the petitioners. Thus, the petitioners have been working as vocational teaching staff since 2009.
5. The petitioners further allege that they were qualified enough and were selected for being appointed as expert examiners in the vocational education amongst all the other teaching staff of all other schools imparting vocational education in their respective schools.
6. It is further submitted by the petitioners that at the time of resuming their regular duties as vocational teachers at the Barnan High School, the school authorities prevented them from resuming their duties in the light of the Circular dated 28 April 2010 issued by the President of West Bengal Council of Vocational Education & Training whereby part-time teachers/trainers in

both (VIII+ and X+2) levels were terminated due to implementation of G. O No. 384 – TET (Poly)/3V-10/2009 dated 10th June 2009.

7. The petitioners further submit that the school has also received payment allocated for making payments to the vocational training teaching staff from the Government Exchequer but have deliberately not released the same to the petitioners. Thereafter, since March 2011 the petitioners had been restrained from attending their duties.
8. The petitioners allege that they have filed an application before the Director of Vocational Education and Training, West Bengal highlighting their grievances. Subsequently, the Director wrote to the school authorities to take necessary steps to resolve the grievances of the petitioners. It is further alleged that despite receipt of the letter from the Director of Vocational Education and Training, the Head of the Institution and the Secretary of the school have failed to take any steps which resulted in the petitioners approaching this Court.
9. In an earlier petition, an order was passed on 18 January 2013, by this Hon'ble High Court in W.P No 1094 (W) of 2013 directing the Director of Vocational Education and Training to pass a reasoned order after giving an opportunity of hearing to the petitioners.
10. It is also alleged by the petitioners that the Director of Vocational Education and Training has given a hearing to all the parties involved. Thereafter, the Director of Vocational Education and Training, cancelled the appointment of the petitioners along with the others who were appointed

without following the Rules on the ground as mentioned in the impugned order.

11. Being aggrieved by the order of the Director of Vocational Education and Training, the petitioners approached this Hon'ble High Court seeking relief. Upon hearing the matter, an order dated 11 September 2013 was passed by this Hon'ble High Court, directing the Secretary of the Government of West Bengal, Department of Technical Education to take a decision in the matter and to communicate a reasoned order by 15 November 2013.
12. Pursuant to the aforesaid order, the Secretary to the Government of West Bengal, Department of Technical Education heard the parties on 11 November 2013 and passed an order on 3 April 2014, confirming the order dated 26 March 2013 passed by the Director, of Vocational Education & Training, West Bengal. It is this order which is now the subject matter of challenge in these petitions.
13. Counsel appearing on behalf of the petitioner challenges the grounds furnished in the impugned order. It is alleged by the petitioners that they had the necessary qualifications to be able to be appointed to the given posts. Moreover, even if any of the candidate did not possess the required qualification, they were given a grace period of 4 years to upgrade their qualifications in view of the Circular dated 31 December 2010.
14. Furthermore, it was argued on behalf of the petitioners that the Secretary, Vocational Education Department, Government of West Bengal erred in recording that the advertisement was published by the school prior to issuance of the Circular.

15. Counsel appearing on behalf of the respondent school supported and justified the impugned order in the facts and circumstances of the case.
16. It was submitted on behalf of the respondent Nos.1A, 2, 3 and 9 that the petitioners did not even possess the qualification which was mentioned in the Government Order dated 22 February 2006. Not only did the petitioners lack qualification but some of the petitioners failed to even provide the required educational certificates at the time of appointment. Thus, no records of the same were with the school authorities. Moreover, it was alleged by the respondent that the petitioner No.1 also provided certificates from a fake University to illegally secure a place at the institution.
17. Counsel on behalf of the respondent Nos. 1A, 2, 3 and 9 further submitted that upon reading the letter dated 25 February, 2011 issued by the Regional Office, Kolaghat, it was evident that the petitioners failed to possess the required qualification which had been mentioned in the Government Orders.
18. In reply, it was submitted on behalf of the petitioners, that the Secretary, Government of West Bengal, Department of Technical Education erred in recording that the selection committee failed to invite a subject expert from the Nodal centre at the time of holding the selection process.
19. The respondent Nos. 1A, 2, 3 and 9 further submitted that no provisions were provided for engagement of the laboratory assistants in the given Government order being G.O No. 179- TET (Poly)/ 14D-21/2005(Pt.). The school authorities however had engaged staff for the post of laboratory assistants contrary to the said Government Order.

20. It was further submitted by the respondent Nos.1A, 2, 3 and 9 that the Departments had received several complaints stating that public money was being misused in the garb of imparting education under a vocational training centre.
21. I have heard the parties at length and have considered all the pleadings filed by the parties. I have also carefully considered the impugned order. I am of the view that the same does not justify any interference whatsoever. There has been no violation of the principles of natural justice. The impugned order is a reasoned order and I find no illegality nor perversity nor contravention of any law nor unfairness which warrants any interference with the impugned order.
22. The grievances of the petitioners have been duly considered and rejected by the impugned order. I find from the letter, being Memo No.CP/VE&T/2013/65 dated 15 March, 2013, issued by the OIC-cum-Nodal Officer that the Nodal Office had no knowledge of the engagement of such panel since no prior permission was obtained from the Nodal Office before appointment of the said panel. The school authorities violated the provision mentioned in the prevalent Government Order and appointed an external subject expert of their own choice. I also find that a resolution was passed by the Managing Committee on 25 August, 2008 wherein the Committee of the school unanimously hired candidates of their own choice despite the candidates not having the required qualification at the relevant time. Insofar as the plea of non-consideration of laboratory assistants are concerned, I find that there is no provision in the prevailing Government

Order for laboratory assistants. All other grievances raised by the petitioners have been considered and duly dealt with in the impugned order. I am fully mindful of the limited jurisdiction of the writ court in such matters. Ordinarily, a writ court does not enter into a factual enquiry and then adjudicate upon the correctness or otherwise of that fact. This principle has been repeatedly reiterated in several decisions of the Hon'ble Supreme Court as well as the different High Courts [*Management Madurankakam Co-operative Sugar Mills vs. S. Viswanathan* (2005) 3 SCC 193 paragraph 12, *Dr. N. Balakrishnan vs. Nehru Memorial Museum and Library Society & Others* (2010 SCC OnLineDelhi 3717 paragraph 21)]. Accordingly, I find no substance in the grievance of the petitioners.

23. In the circumstances both WPA No.13499 of 2014 along with WPA No.14156 of 2014 fail and are dismissed. However, there shall be no order as to costs.
24. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Ravi Krishan Kapur, J.)