

25.11.2020

Item no. 32

Dd/aloke

Through Video Conference

WPST 91 of 2020

Laxmi Harijan

Vs.

The State of West Bengal & Ors.

Mr. Saibal Acharya

Mr. Jakir Hossain

... .. For the Appellant/petitioner

Mr. Tapan Kr. Mukherjee, Id. AGP

Mr. S. Mitra

... ..For the State

We have heard learned counsel for the petitioner as well as learned counsel appearing for the State.

The sum and substance of the writ petition is that the petitioner who is a sweeper in ABN Seal College Girls Hostel has made a request for regularization of her service and for her absorption on regular basis.

The Learned Tribunal has essentially held that the officer in-charge of the said college does not have jurisdiction to regularize and has, thus, turned down the request of the applicant for interference with the memo issued by the officer in charge.

Hearing learned counsel for the petitioner and the learned counsel for the State, we see that the original application had a wider prayer. Relief (b) was for a direction to the respondents, their men, agents, subordinates and each one of them to regularize and/or absorb the service of the applicant

to the post of sweeper (Group – D) of ABN Seal College Girls Hostel on permanent basis. Obviously, therefore, the matter had to be considered bearing in mind that the direction sought to the superior officials and the Government was the appropriate course, the Tribunal having held the officer in-charge of the college did not have jurisdiction to regularize or absorb the petitioner on regular basis. The college in question is a Government college. The hierarchy of the administration goes up through the Director of Public Instruction and the Government at different levels. To our query, it was told that the communication sent by the officer in-charge of the college to the DPI is still pending. Even if that is not pending, in the fitness of things, and to secure the ends of justice and to prevent miscarriage of justice the proper course that ought to have been adopted in terms of the Constitution and laws was to direct the Director of Public Instruction and his superior officials to consider the petitioner's request for regularization and/or absorption into service. We see the heart-burn of the petitioner who is a sweeper in a women's college Hostel and the fate of the woman employee who is getting entangled in the cobweb of red-tapism particularly when the matter has already been referred to the Director of Public Instruction by the officer in charge of the ABN Seal College Girls Hostel. We are clear in our mind that this is a case of gross injustice and the situation obtained as a result of the sequence of events has resulted in manifest miscarriage of justice.

We were minded to impose an order of exemplary costs against the Government which

would adequately compensate the petitioner in the situation obtained. However, we dissuade ourselves from issuing any such order with the sole object of preserving conciliatory approach in the matter to pave way for consideration of the petitioner's request for regularization and/or absorption by the competent authority. This means that the Director of Public Instruction who is the respondent no. 2 herein, will immediately address the issue and do the needful to issue a reasoned order after affording an opportunity of hearing to the petitioner and also upon calling for necessary records within three months from the receipt of a copy of this order. We are also told that the emoluments due to the petitioner are not being released. That issue will also be considered and a reasoned order will be passed by the Director of Public Instruction at the earliest, as narrated above.

The writ petition is, thus, disposed of.

Since we have not called for any affidavit, the allegations contained in the writ petition are deemed not to be admitted by the respondents.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)