

21-01-2020
Court No.2
Sh/81.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 766 OF 2019

**Sri Rana Sarkar. Petitioner.
Vs.
The State of W.B. & Ors.... Respondents.**

Mrs. Suman Sehanabis (Mondal),
Ms. Arpita Saha.

. . .For the Petitioner.

Mr. Debabrata Dhar (AGP)
Mr. Subir Kumar Saha.

. . .For the State.

The writ petitioner was engaged as a Clerk-Cum-Typist in the Office of the Tufanganj-I, Development Block with effect from November 23, 2010. As alleged, a letter of engagement was also issued on even date, which has been annexed to the writ petition. Thereafter it is alleged that the petitioner has been working in the said Office in the said post for last ten years but the post of Clerk-Cum-Typist has not been sanctioned by the Government and the petitioner has been continuing as a casual worker.

Despite several representations the authorities have not paid any heed to the request of the petitioner for absorption upon converting the post of Clerk-Cum-Typist to a substantive post.

The learned advocate appearing for the petitioner has drawn the attention of the Court to a Memo No.194(6) dated July 3, 2017 issued by the

Executive Officer, Tufanganj-I, Panchayat Samity whereby recommendation was made for payment of Rs.8500/- per month in favour of the petitioner in terms of G.O.No.9008 dated September 16, 2011 and G.O. No.401-F dated may 20, 2013 by the Secretary to the Government of West Bengal.

After hearing the learned advocates appearing for the petitioner and also the learned advocate for the State respondents, I am of the opinion that the question of absorption of the petitioner at this stage against the post which was not a sanctioned post and on the basis of a private arrangement between the Block Development Officer and the petitioner is not permissible in law. Reference is made to the decision of the Apex Court in the case of Secretary, State of Karnataka & Ors Vs. Umadevi & Ors in Civil Appeal No.1861-2063/2001, reported in (2006)4 SCC 1. The engagement letter of the petitioner categorically states that the petitioner will be engaged as a casual worker. This prayer of the petitioner is denied. There is nothing on record to show that the petitioner was appointed through a proper selection process.

However, the petitioner will be at liberty to approach the Executive Officer, Tufanganj-I, Panchayat Samity and Rural Development Officer, the respondent no.4, Cooch Behar for payment of the amount of Rs.8500/- per month as sanctioned by the Executive Officer, Tufanganj-I, Panchayat Samity for implementation of the Memo 194(6) dated July, 2017.

The petitioner will file such application within ten days from date. The Said Executive Officer,

Tufanganj-I, Panchayat Samity will consider and dispose of the application of the petitioner upon consideration of the aforesaid Memo No.194(6) and pass a reasoned order in accordance with law. The said reasoned order should be communicated to the petitioner and all other authorities as may be required. The entire exercise should be completed within a period of four weeks from the date of receipt of the application of the petitioner.

It is made clear that I have not gone into the merits of the claims and counter claims of the parties.

The writ petitioner is thus disposed of without any order as to costs.

Urgent Photostat certified copy of this order, if applied for be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(SHAMPA SARKR, J.)