

30.06.2021
Sl. No.9
srn

W.P.A. No. 8200 of 2021
Tanmoy Chattopadhyay
Vs.
The State of West Bengal & Ors.

Mr. Dibyendu Chatterjee,
Mr. Pritam Majumder,
Mr. Dhillon Sengupta

...for the Petitioner.

Mrs. Chaama Mookerji,
Ms. Paramita Pal

...for the State.

The petitioner was engaged as a Motivator of Galsi-I Block for implementation of the Bangla Swanirbhar Karmasanasthan Prakalpa by a memo dated February 16, 2008 issued by the General Manager, Society for Self Employment of Unemployed Youth, West Bengal. The primary function of the petitioner was to identify the prospective entrepreneurs in the locality, prepare their application forms and the projects as per the stipulated norms and arrange for loans from banks for implementation of such project. The Motivators in lieu of such service were entitled to get incentive, Travel Allowance and bonus. The petitioner deposited bills for payment of the incentives before the respondents. The Block Development Officer recommended such payment but the same was not paid by the concerned West Bengal Sworojgar Corporation Limited.

Aggrieved, the petitioner filed W.P. No.13065 (W) of 2019. The said writ petition was disposed of by another co-ordinate Bench of this Court by an order dated September 20, 2019 with a direction upon the Managing Director of the West Bengal Sworojgar Corporation Limited to reconsider the case of the petitioner for payment of his claims towards incentive along with travelling allowance and bonus. The contention of the respondents that there was a delay in submission of the bills was rejected by the co-ordinate Bench.

The petitioner has referred to Annexure P-5, that is a Memo No.826/SHG&SE/Galsi-I/2018 and Memo No. 827/SHG&SE/Galsi-I/2018 both dated April 3, 2018 issued by the office of the Block Development Officer, Galsi-I Development Block, Purba Burdwan indicating that the total amount of Rs.5,70,866/- and further sum of Rs.57,000/- as bonus was payable to the petitioner. According to the petitioner, these two documents are the bills which are payable to the petitioner. Pursuant to the direction of this Court a reasoned order dated November 8, 2019 was passed and communicated to the petitioner.

The petitioner is aggrieved by the said order as only an amount of Rs.1,66,748/- has been found to be payable to the petitioner.

The petitioner contends that all documents and bills were submitted before the authority in justification of the amount payable, as mentioned hereinabove. That the delay in submitting the bills was not due to any laches but because the bank delayed in issuing the certificates. It is further submitted that the authorities while disposing of the representation of the petitioner, did not assign any reason as to why the amount reflected in the two memoranda both dated April 3, 2018 for payment of Rs.5,70,866 and Rs.57,000/- had been rejected. The order also does not reflect the calculation arrived at by the authorities while negating the major part of the petitioner's claim.

Mrs. Mookerji, learned Senior Government Advocate, submits that the matter requires calculations to be made on the basis of the bills. This is a very fair submission. She prays for an opportunity to file an affidavit. However, it is a settled principle of law that if the order itself does not reflect the reasons, the reasons cannot be supplied by way of an affidavit-in-opposition. The respondents would not be able to improve what is on record or supplement the order. The order impugned ought to have reflected why and how the authorities rejected the claims made by the petitioner.

Under such circumstances, without going into the merits of the claim of the petitioner and the respondents, the

writ petition is disposed of by setting aside the order impugned dated November 8, 2019. The order lacks material particulars and the calculation on the basis of which, the authorities arrived at the amount of Rs.1,66,748/- to be payable to the petitioner. The authorities have failed to provide reasons as to why the remaining portion of the claim of the petitioner as per the memoranda dated April 3, 2018 were not allowed.

The respondent No.3 shall reconsider the representation of the petitioner, which is at page 80 Annexure P-16 to the writ petition. A hearing shall be given to the petitioner and also the Block SHG&SE Officer, Galsi-I, Development Block, who was the person responsible for submission of the bills of the petitioner as per the petitioner's claim for incentive and who had already forwarded the bills of the petitioner by issuing the memoranda dated April 3, 2018. Such hearing shall be given with seven days notice in advance to the parties. A reasoned order should be passed and communicated to the petitioner. The order should reflect the reasons as to why the claim of Rs.5,70,866/- and Rs.57,000/- are not admissible to the petitioner. The entire exercise should be completed within 8 weeks from the date of communication of this order.

The writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)