

06.12.2021
Item No.8
Crt. No.11.
KB

**FMA 855 of 2021
with
IA No. CAN 1 of 2021**

**Dinesh Mahato
-Vs-
State of West Bengal & Ors.**

(Via Video Conference)

Mr. Dilip Kumar Samanta
Mr. Ashis Kumar Paul
... For the appellant.

Mr. Susanta Pal
Mr. Prabir Kumar Ray
... For the State.

This appeal is against the order passed by the Hon'ble Single Bench in W.P.A. No. 5036 of 2021 wherein the writ petition filed by the appellant was dismissed.

The petitioner was engaged as village police volunteer for Gram Panchayat to assist the Officer-in-Charge of the concerned Police Station. The engagement was for a period of one year and the nature of appointment was temporary and contractual in nature.

During the course of discharging his duty a criminal case was initiated against the appellant by the police of P.S. Karandighi by Police Station Case No.41 of 2013 dated 21st January, 2013. On completion of investigation the police has submitted charge-sheet

against the petitioner for the offence under Section 376/511 of the I.P.C.

The appellant has faced trial before the Learned Court of Additional Sessions Judge, Islampur *vide* Sessions Case No.72 of 2014. Trial was ended in acquittal *vide* judgement dated 30th March, 2017.

After acquittal, the appellant had preferred a representation before the respondent authorities for reinstatement of his service on the ground of acquittal in the criminal case. As the authorities have not considered the representation submitted by the appellant, the appellant has preferred a writ application before the Hon'ble Single Judge and the same was dismissed on 16.11.2021 which is impugned in the instant appeal.

The Counsel for the appellant had argued that the petitioner was falsely implicated in the said case and subsequently the Learned Court of Sessions Judge had acquitted the appellant from the said case and thus the appellant is entitled to be reinstated in his service. It is further argued that inspite of representation submitted by the appellant, the respondent authorities have not considered the request made by the appellant. The counsel for the appellant further submitted that the Hon'ble Single Judge has dismissed the writ petition only on the ground of limitation though the appellant had

submitted his representation immediately after his acquittal from criminal case. The counsel for the appellant prayed for setting aside the impugned order and for reinstatement of the appellant in his service.

Per contra, the Counsel for the State-respondents has submitted that the petitioner was engaged for one year and the service of the appellant was temporary and contractual in nature. When the appellant was performing his duty, the appellant had committed an offence u/s 376/511 IPC and Police of P.S. Karandighi registered case against the appellant. The counsel for the respondent further argued that the period of engagement was only for one year and the said period has already over long back. The counsel for the respondent further argued that the appellant is not entitled to reinstate in his service and the order passed by the Hon'ble Single Judge does not required any interference.

Considered the submissions of the parties, the order passed by the Hon'ble Single Judge and the materials available on record.

The Respondents have engaged the appellant as volunteers in the Gram Panchayat to assist the Officer-in-Charge of the concerned Police Station and the service of the appellant was only for one year and engagement of the appellant was temporary and contractual in nature.

From record it reveals that during his employment, the appellant was involved in a criminal case for the offence under Section 376 of the I.P.C. The representation submitted by the appellant does not bear any receipt. The appellant was acquitted on 30.3.2017 and had submitted representation on 21.4.2017 (without any receipt). Appellant has filed writ application in the year 2021 i.e. about after four years.

The engagement of the appellant was only for one year and the period has already been completed, the nature of appointment was temporary and contractual in nature. The appellant has approached this court for his reinstatement after about four years and thus the Court is of the view that there is no illegality in the order passed by the Hon'ble Single Judge in W.P.A. 5036 and hence the appeal is devoid of merit.

The F.M.A. 855 of 2021 is dismissed.

No order as to costs.

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)