

17.12.2021
Sl. No.40
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Through Video Conference)

WPA 16469 of 2021

Narendranath Mahato & Ors.
Vs.
The State of West Bengal & Ors.

Mr. D. K. Samanta,
Mr. Ashis Paul

....for the petitioners.

Mr. Swapan Kr. Datta, Sr. Advocate,
Ms. Soumi Guha Thakurata

....for the State.

Thirty-four persons have joined as writ petitioners in this writ petition to espouse their independent cause though it arises out of the identical set of facts and the reliefs are also claimed against the same set of respondents. Court fees paid is found deficient.

The petitioners are directed to put in deficit court fees by 22nd December, 2021, failing which the writ petition will be treated to have been filed only by the writ petitioner no.1.

The petitioners say that they have been engaged as R. G. Party Night Guard in the district of Purulia, however, no letter of engagement or advertisement or notification pursuant to which they were so engaged has been produced before this Court. Only a general instruction issued by the Superintendent of Police, Purulia as to what should be done by a person as R.

G. Party Night Guard has been produced along with photocopies of identity cards and certificates issued by the concerned Officer-in-Charge of the police station. The documents do not establish the nature of engagement or the rights of the petitioners. The petitioners are seeking regularisation of their services on permanent basis with all consequential service benefits.

On behalf of the State, it is submitted that there is no legal right which can be asserted on behalf of the petitioner or entitle them to file and maintain a writ petition. It is further submitted that they do not hold any civil post and there is no specific government recognition as to their services also as contractual employee for which they can file and maintain a writ petition. The writ petition, therefore, according to the State, is liable to be dismissed.

In absence of any notification and/or offer letter and/or engagement letter, it is very difficult to construe the exact nature of engagement of the petitioner. It is however, apparent that the petitioners were not appointed against any civil post. It is also not possible to ascertain whether they were in contractual service. In that view of the matter, no mandatory order for regularisation or providing consequential service benefits can be passed in the writ petition.

Be that as it may, giving the petitioner the benefit that there is some recognition as to their engagement on being paid out of the Government coffer, the representation dated 19th October, 2020 made by the petitioners (appearing at page 21 of the writ petition) is directed to be considered by the District Magistrate, Purulia within a period of four months from the date of communication of a server copy of this order. The District Magistrate shall go into all the issues including the nature of engagement of the petitioners and their entitlements, if any, on the basis of such engagement.

It is made clear that I have not gone into the merits of the matter and the learned District Magistrate shall be free to decide the matter independently without being in any way influenced by this order. It is further made clear that this order will not create any equity or recognition of any right of the petitioners to ventilate their grievances, if any, at a subsequent stage in writ jurisdiction unless they are able to demonstrate their legal rights.

The learned District Magistrate shall along with this order be served with a copy of the writ petition with all its annexures in legible form to enable him to act in terms of this order. The learned District Magistrate shall pass a reasoned order by allowing the petitioners being represented by three members

among themselves and observing the prevalent COVID – 19 protocol. The reasoned order should be communicated to the petitioners within a fortnight from the date of same being passed.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

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

(Arindam Mukherjee, J.)