

February 8, 2022
Sl. No.13
Court No.1
SG/s.biswas

WPA (P) 35 of 2022

Abul Hasem

vs.

The State West Bengal and others

(Through Video Conference)

Mr. Arjun Mookerjee,
Mr. Probal Sarkar, Advocates

... for the petitioner

Mr. Supriya Chattopadhyay,
Mr. Rudranil De, Advocates

... for the State

Mr. Kumar Jyoti Tewari,
Mr. Tarunjyoti Tewari, Advocates

.... For the respondent Nos.10 & 11

Mr. Lalratan Mondal,
Mrs. Maitreyee Banerjee, Advocates

... for the respondent No.13

The petitioner has challenged the appointment of respondent No.11 as Assistant Headmaster of the concerned school and the plea which is raised by the petitioner is in respect of certain discrepancies of timings in receiving the appointment letter and date of joining of the respondent No.11.

A perusal of the petition reveals that the petitioner was earlier working as the Secretary of the school and he was removed and the allegation is against the new Secretary and the Headmaster.

Hence, it is clearly a motivated petition. That apart, it is the settled law that in respect of the dispute relating to service matters, the writ petition cannot be maintained. The Supreme Court in the matter of *Madan Lal versus High Court of Jammu and Kashmir and others* reported in 2014 (15) SCC 308 has held:

“9. *That apart time and again this Court repeatedly held that in service matters, public*

interest litigation is not maintainable. We can profitably refer to a recent decision reported in Hari Bansh Lal v. Sahodar Prasad Mahto. Paras 14 and 15 are relevant which are as under:

“14. In Ashok Kumar Pandey v. state of W.B. this court held thus:

‘16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigations have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in Duryodhan Sahu v. Jitendra Kumar Mishra this court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.’

The same principles have been reiterated in the subsequent decisions, namely, B. Singh v. Union of India, Dattaaj Nathuji Thaware v. State of

Maharashtra and Gurpal singh v. State of Punjab.

15. The above principles make it clear that except for a writ of quo warranto, public interest litigation is not maintainable in service matters.”

Having regard to the above, we find that the petitioner cannot be permitted to raise the grievance in respect of the appointment of respondent No.11 by way of a public interest petition.

Hence the petition is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]