

6th May, 2022
(D/L No.12)
(SKB)

W.P.A. 6134 of 2021

Syama Pada Bhandari
Versus
State of West Bengal and others

Mr. Tulsidas Roy,
Mr. Tirthankar Roy
... for the petitioner.

Mr. Supriyo Chattopadhyay,
Ms. Iti Dutta
... for the U.O.I.

The petitioner's prayer is for approval of appointment as a librarian in the Chelod High School (HS), Paschim Burdwan. The petitioner was earlier appointed as a clerk and then posted on a vacancy in the post of librarian. The petitioner was appointed as a librarian by the Secretary of the concerned school on 25th March, 2009.

According to learned counsel appearing for the petitioner, this appointment was against a vacancy in the post of Librarian, which was in reference to a memorandum dated 3rd October, 2007 of the Director of School Education, West Bengal. In Clause (b)(i) of the said Memorandum it is provided that a higher secondary school was allowed two Clerks and one Librarian if the concerned school has at least 750 students and 2000 books in the existing school library.

The concerned school complies with these two conditions. Learned counsel also places a document of 28th January, 2008 by which the school wrote to the Additional District Inspector of Schools (SE) asking for prior permission to appoint one Clerk and one Librarian in the concerned school.

Learned counsel appearing for the State hands up a Notification dated 14th January, 2009 by which the West Bengal School Service Commission (Amendment) Act, 2008 (hereinafter referred to as the 'said Act') was notified. Counsel submits that by the said notification, Section 9(2) of the said Act was substituted in the following manner:-

“Any appointment of a Teacher or a non-teaching staff made on or after the commencement of this Act in contravention of the provisions of this Act shall be invalid and shall have no effect.....”

Counsel submits that the petitioner was appointed to the post of Librarian after this Act came into force.

After considering the submissions of learned counsel appearing for the parties, this court is of the view that the earlier appointment of the petitioner as a Clerk in the concerned school is not relevant for the purposes of the present writ petition, since the petitioner prays for permission of the appointment to the post of Librarian. The petitioner admittedly was appointed to this post on 25th March, 2009 which is after the notification of The West Bengal School Service

Commission (Amendment) Act, 2008. The said Act, particularly, Section 9(2) makes it clear that any appointment of a teaching or a non-teaching staff made to the post after notification of the said Act on 14th January, 2009 would be invalid. The letter relied on by the petitioner by which the concerned school has asked for prior permission to the Additional District Inspector of Schools (SE), Asansol Sub-Division, on 28th January, 2008 is an one sided request which has not been responded to by the State. Hence, the petitioner cannot claim any right to the appointment as a Librarian, particularly, when the appointment came after the Notification of the said Act on 14th January, 2009. This is all the more so since the said Act makes all subsequent appointments to teaching and non-teaching posts invalid.

In view of the above reasons, the writ petition being W.P.A.6134 of 2021 is accordingly dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)