

06.06.2022
Item No. 30
Crt.No.11
b.r.

MAT 348 of 2021
with
IA No. CAN 2 of 2022

Swapan Kumar Pradhan
-vs-
The State of West Bengal & Ors.

Mr. Manish Kumar Das
..... for the appellant.

Mr. Jahar Lal De
Mr. Shamim-ul-Bari
..... for the State-Respondents.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

This appeal is directed against the order of the Hon'ble Single Bench dated 6th December, 2019 in the writ petition being WP 22168(W) of 2010. The appellant/the writ petitioner claims continuity in Government Service on the strength of a purported recommendation dated 13th March, 2009 of the then Block Livestock Development Officer (*BLDO*), Khejuri-I, District- Purba Medinipur.

The Report (*supra*), *inter alia*, informs the Block Development Officer (*BDO*), Khejuri-I, District-Purba Medinipur details of the casual employment of the appellant/the writ petitioner along with another, on a monthly remuneration basis for performance of miscellaneous jobs in the office of the *BLDO*, Khejuri-I (*supra*).

Pursuant to the order of the Hon'ble Single Bench in an earlier writ petition also filed by the present appellant dated the 18th of March, 2010, the prayer of the writ petitioner was considered by the BDO, Khejuri-I and found unsustainable. It was, *inter alia*, noticed by the BDO, Khejuri-I *vide* his order dated 6th July, 2010 that the services of the appellant/the writ petitioner were drafted by the then BLDO, Khejuri-I for assisting in office jobs on a casual basis. It was further noticed that there is in effect no recommendation in favour of the appellant/the writ petitioner in favour of engaging him in continuous Government duties.

During the course of hearing of this appeal, Learned State Counsel, Mr. Bari, was directed to file a Report of the then BLDO, Khejuri-I, one Dr. Mahitosh Das. The Report provides details of the engagement of the appellant/the writ petitioner in the office of the BLDO, Khejuri-I in the following words:-

“This is hereby giving you the report that Swapan Kumar Pradhan, S/O-Paresh Chandra Pradhan, Choudhachulli, Khejuri-2, Purba Medinipur, was involved infrequently to deposit AI fees and vaccination charges in the UBI, Bansgora Branch (Now PNB) once in a month & Users' Charges once in a month in SBI, Contai.

For Sweeping of the office once in a week & for carrying water (approximately

half an hour) he was involved for few months.

Sometimes Asish Kumar Bhakata, Patna, Birbandar, Khejuri-I, Purba Medinipur was done the same work.

Therefore, I sometimes have paid some money to them from Office Contingency fund when it was available.”

Mr. Das, Learned Counsel appearing for the appellant/the writ petitioner, relies on an unreported decision of the Hon’ble Division Bench in *FMA 2197 of 2013* to stress the point that the appellant/the writ petitioner cannot be discriminated against in service *qua* his co-employee, one Asish Kumar Bhakta, who was similarly appointed as casual basis by the *BLDO*, Khejuri-I on 13th of March, 2009. It is submitted that the said Asish Kumar Bhakta still stand continuously engaged in the office of the *BLDO*, Khejuri-I.

Having heard the parties and considering the materials placed, this Court finds that the unreported judgement of the Hon’ble Division Bench in *FMA 2197 of 2013* stands distinguished from the facts of this case. No materials has been placed before this Court to show that said Asish Kumar Bhakta, the co-employee of the present appellant/the writ petitioner, has been conferred with additional benefits and/or further benefits in the nature of continuous Government employment beyond the terms

of the Letter of Engagement dated 13th of March, 2009 (*supra*).

In such view of the matter *qua* the claim of the appellant/writ petitioner to be considered for engagement in continuous Government duty cannot stand on the same footing on an argument alleging discriminatory treatment *qua* his co-employee, who admittedly is not the recipient of such continuous Government duties.

It is also claimed from the evidence on record that the appellant/the writ petitioner was not engaged in regular duties and, in such view of the matter, this Court finds no infirmity either in the reasoned order of the *BDO*, Khejuri-I dated 6th July, 2009 or in the order impugned of the Hon'ble Single Bench dated 6th December, 2019.

MAT 348 of 2021 with **CAN 2 of 2021** stand accordingly **dismissed**.

Since further affidavits are not called for, allegations made in the appeal are deemed not to have been admitted.

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

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

(Ananda Kumar Mukherjee, (Subrata Talukdar, J.)