

17.02.2022
Item no.5
Court No.6.
AB

**F.M.A. 703 of 2021
With
I A CAN 1 of 2022**

Manab Maity

Vs

The State of West Bengal & Others

Mr. Pankaj Halder,
Mr. Sanatan Panja,
Ms. Rama Halder,
Mr. Tapas Mannafor the Appellant.

Mr. Swapan Kumar Datta,
Mr. Tapas Kumar Deyfor the State.

By consent of the parties, the appeal and the application are taken up together for hearing.

This appeal is preferred by the writ petitioner against an order dated March 4, 2021, whereby W.P.A. 25409 of 2018 was dismissed.

The appellant says that he was engaged as a Supervisor/Paymaster of Natshal-1 Gram Panchayet for a scheme called "Re-excavation of Banipota Khal" on January 18, 2000. On January 3, 2014, he was engaged as a contractual employee to generally supervise the works of Natshal-1 Gram Panchayet. He was suddenly disengaged on July 6, 2018. He relies on a Memorandum bearing no.9008-F(P) dated September 16, 2011, issued by the Finance Department of the Government of West Bengal, to

argue that he is entitled to carry on with his job till the age of sixty years as he is covered by the said Memorandum.

Learned Counsel appearing for the State says that this Memorandum would not apply to the appellant. Certain factual parameters have to be satisfied by the appellant before he can come within the purview of the said Memorandum.

Having heard learned Counsel for the parties, we are of the view that a proper Officer in the Administration should consider the appellant's claim based on the aforesaid Memorandum dated September 16, 2011, issued by the State Government.

Accordingly, we grant liberty to the appellant to make a comprehensive representation to the District Panchayet and Rural Development Officer, Purba Medinipur, being the respondent no.3 herein, within a period of two weeks from date. The appellant may annex copies of judgments of Court to the representation. If such representation is made within the time indicated, the respondent no.3 shall take a reasoned decision thereon in accordance with law and applicable circulars/notifications within a period of eight weeks from the date of receipt of the representation after giving an opportunity of hearing to the appellant or his authorized representative and any

other persons, who may be affected by the order of the respondent no.3.

We are told that the Gram Panchayet had informed the learned Single Judge that during the pendency of the writ petition, another person has been appointed in the post in respect of which the writ petitioner was disengaged. Such person must be given an opportunity of hearing by the respondent no.3 before he decides the appellant's representation finally. The decision so taken shall be communicated to the appellant within a week from the date of the decision. If the respondent no.3 finds merit in the claim of the appellant, necessary consequential orders may be passed.

We have not gone into the merits of the appellant's claim. The respondent no.3 shall decide the appellant's claim in accordance with law.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

FMA 703 of 2021 along with IA CAN 1 of 2022 is, accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)