

SL
No.7
Court
No. 11
G.S.Das

14.12.2022

FMA 828 of 2022
With
CAN 2 of 2022

Nilima Das
-Vs-
State of West Bengal & Ors.

Mr. Sayan Chattopadhyay
Mr. Kaustav Sen
Mr. Ivan Sarkar

... for the Appellant

Mr. Supriya Chattopadhyay
Mr. Rezaul Hossain

... for the State-Respondents

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

The appellant was the writ petitioner before the Hon'ble Single Bench. The appellant was engaged as Anganwadi Worker at Mathabhanga-I ICDS Project in the District of Cooch Behar. The appellant was dismissed from the position of Anganwadi Worker in September, 2007 on the ground that the appellant has suppressed her higher academic qualifications in contravention of the recruitment notice.

Mr. Chattopadhyay, Learned Advocate appearing for the appellant, points out that on 22nd August, 2013, the controlling department, being the Department of Women & Child Development and Social Welfare, Government of West Bengal, took a policy decision that the Anganwadi Workers whose services have been terminated on the ground of suppression of their

higher qualifications would be reinstated.

Learned Counsel further points out that the policy decision of reinstatement was given effect to by a communication dated 9th March, 2015 and on the basis of such communication nine Anganwadi Workers were reinstated at Mathabhanga II ICDS Project. The name of the appellant was however left out.

The appellant submits that the order of reinstatement of nine similarly circumstanced Anganwadi Workers is discriminatory since such policy decision of reinstatement has been selectively given with retrospective effect from 1st April, 2012. There appears to be no fathomable reason not to extend the policy decision of reinstatement to the appellant whose service stood terminated on a similar ground in 2007.

The appellant submits that such arbitrary cut-off date could not be fixed by the State-respondents denying parity of treatment in law which is constitutionally guaranteed.

Mr. Chattopadhyay, Learned State Counsel, submits that the policy decision directing the reinstatement of terminated Anganwadi Workers *vide* letter dated 22nd August, 2013 of the Department of Women & Child Development and Social Welfare is not challenged in the writ petition.

Since such policy decision stands, the appellant is precluded from going behind such policy decision.

Moreover, Learned State Counsel further submits that the Hon'ble Single Bench found no merit in the writ petition holding that the writ petition was barred by delay. The Hon'ble Single Bench, *inter alia*, held that the appellant, who was dismissed in 2007, approached the Writ Court only in 2015.

Accordingly, Learned Counsel points out that there is no scope for granting any relief to the appellant.

Having heard the parties and considering the materials placed, this Court finds that the decision to reinstate the terminated Anganwadi Workers was communicated by the Order dated 22nd August, 2013. The said decision was given effect to by the communication dated 9th of March, 2015. The writ petitioner, coming to learn of the reinstatement in 2015, approached the Writ Court in the same year. The Writ Court ultimately decided the matter in April, 2021.

In the above view of the facts, this Court cannot accept the view of the Hon'ble Single Bench that the writ petition was barred by delay. The appellant upon acquiring knowledge of denial of her rights in 2015, lost no time in arriving before the Writ Court.

Accordingly, to the above extent, the order of the Hon'ble Single Bench stands set aside.

The matter stands now remanded to the

Respondent No.1, the Secretary, Department of Women and Child Development and Social Welfare, Government of West Bengal to hold a hearing and pass a reasoned order with regard to the rationale behind the cut-off date for implementing the order of reinstatement with effect from 1st of April, 2012 as evidenced from the communication dated 22nd August, 2013 and denying such benefit to the appellant. A copy of the reasoned order shall be communicated to the appellant.

Let the above directed exercise be completed not later than a period of six weeks from the date of communication of this order.

In view of the order passed above, nothing further survives in the appeal.

FMA 828 of 2022 along with **CAN 2 of 2022** stand accordingly **disposed of**.

Since Affidavits are not invited, other allegations made are deemed not to have been admitted by the parties.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Supratim Bhattacharya, J.)

(Subrata Talukdar,J.)