

90. 10.03.2022
BD Ct.15

W.P.A. 7926 of 2018

(Through Video Conference)

Bipad Kumar Mondal & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Pratip Kumar Chatterjee

... for the petitioners.

Ms. Sanghamitra Nandy

Ms. Manika Pandit

... for the State

Writ petition is taken up for hearing in presence of the learned advocates representing the writ petitioners and the State respondents.

Matter relates to regularisation/approval of service rendered by the writ petitioners who are engaged under a project as it appears from the order of the Sabhadhipati, Murshidabad Zilla Parishad dated 26th December, 2011.

Mr. Pratip Kumar Chatterjee, learned Advocate appears on behalf of the writ petitioners and has argued that petitioners were engaged under the Murshidabad Zilla Parishad in the year 1995 onwards. Therefore their appointment should have been regularised by this time. Now in support of the case made out by the petitioners one Memorandum dated 16th September, 2011 has

been placed before this Court which is at page 42 of the writ petition.

According to the petitioners this Memorandum dated 16th September, 2011 comes in their aid. It has also been submitted by the learned advocate representing the writ petitioners that one of the writ petitioners in the present writ petition namely Subrata Bal being the petitioner no. 6 in this writ petition preferred one writ petition being W.P. 21093 (W) of 2010 which was disposed of by a Co-ordinate Bench on 23rd March, 2011. By order dated 23rd March, 2011 the concerned authority of the Murshidabad Zilla Parishad was directed to take decision on the representation of the said petitioner. An order dated 26th December, 2011 passed by the Sabhadhipati, Murshidabad Zilla Parishad is annexed to the writ petition at page 41 wherefrom it appears that though such order passed by the Sabhadhipati, Murshidabad Zilla Parishad was not in terms of the order dated 23rd March, 2011 passed by the Co-ordinate Bench in W.P. 21093 (W) of 2010 but in terms of the order passed in a separate writ petition preferred by one namely Buddhadeb Halder and such writ petition was numbered as W.P. 21141(W) of 2010. Buddhadeb Halder, is also petitioner no. 10, in the

present writ petition.

On perusal of such order dated 26th December, 2011 it appears that the prayer of the writ petitioner in W.P. 21141 (W) of 2010 was refused on the ground that the Government Order dated 23rd April, 2010 applies in case of casual/daily rated workers in the Government departments but the writ petitioner was project worker under the scheme sponsored by Murshidabad Zilla Parishad. Therefore, the claim of Buddhadeb Halder, being the petitioner no. 10 in the present writ petition for regularisation/approval of appointment was not considered by the Sabhadhipati, Murshidabad Zilla Parishad.

Petitioners in the present writ petition are 13 (thirteen) in number who are similarly circumstanced like Subrata Bal, being the petitioner no. 6 and Buddhadeb Halder, being the petitioner no. 10.

All the writ petitioners have claimed approval of service and terminal benefits.

Question of granting approval of service and terminal benefits only arises if the petitioners are in regular employment. In the present case, on hearing the learned advocates representing the parties as well as on perusal of the relevant

documents available on record it appears that petitioners were not appointed on substantive basis. It also appears that they were neither appointed on casual basis nor on daily rated basis.

In view of such situation, the Memorandum dated 16th September, 2011 which has been relied upon by the petitioners has no manner of application. It has further been found from the order dated 26th December, 2011 passed by the Sabhadhipati, Murshidabad Zilla Parishad that petitioners functioned as project workers under the scheme of the Murshidabad Zilla Parishad.

In the above conspectus it appears that the petitioners do not have enforceable legal rights which can be protected upon issuance of mandamus.

Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

(Saugata Bhattacharyya, J.)