

111 22.06.2022
rkd Ct.15

W.P.A. 11233 of 2017
(IA NO: CAN1/2021)

Badal Kumar Das & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Ayan Banerjee,
Mr. Suvra Prakash Lahiri,

....for the petitioners.

Mr. Tapan Coomaar Dey,
Mr. Tarun Chatterjee,
Ms. Shreya Chatterjee,
Mr. Soumen Chatterjee,
Ms. Indumouli Banerjee

....for the respondent nos.5 & 6.

Mr. Tapan Kumar Mukherjee,
Mr. Somnath Naskar

....for the State.

This is a writ petition at the instance of the four employees of Collective Cocoon Purchase Committee (for short CCPC) praying for regularisation of their service in view of merger of CCPC with West Bengal Khadi and Village Industries Board (for short KVIB) with effect from 1st April, 2010.

It has been contended by Mr. Lahiri, learned advocate representing the petitioners that since they were working in CCPC prior to the merger on 1st April, 2010 and merger took place along with all liabilities and assets of CCPC with KVIB therefore apart from granting financial benefits in connection with the service which they are rendering the service of the petitioners ought to

have been regularised. It has also been submitted that out of four writ petitioners three have already retired and one is continuing.

The matter is heard in presence of the learned advocates representing the petitioners, State respondents and KVIB.

There was previous writ petition being W.P. 30453(W) of 2014 by the present petitioner which was disposed of vide order dated 14th January, 2015 wherein the concerned respondent authority was directed to take decision on the claim of the petitioners. Subsequently, the issue was taken up by the Principal Secretary to the Government of West Bengal, Micro, Small and Medium Enterprises and Textiles Department and ultimately following decision has been taken:

“From examining the annexures filed by the petitioner with their representation dated 20.1.2015, it is seen that the then Joint Secretary of this department has clearly mentioned that “the State Government will not reimburse any cost for payment of salaries and wages in this regard which will have to be borne by KVIB” vide copy of Memo. dated 25.1.1994 sent to the Chief Accounts Officer, Khadi and Village Industries Board (

Annexure – E). Thereafter, the CEO, WBK&VIB informed the Joint Secretary of this department that “the Board is ready to bear the salaries and wages of the personnel of the CCPC on taking over the assets and management of the CCPC” vide Memo. Dated 21.2.1994.

It appears that the department has already taken up the matter for regularizing their services with the Finance Department and several correspondences were made between the Department and the CEO, WBK&VIB which is dealt in File No. Ms.O/C-I/9S-05/06 and the department placed the matter for getting approval from the Department of Finance, without which it would not materialize at all. So, the petitioners prayer for regularizing their services is under process now.

With regard to other prayer made by the petitioners, it appears that the WBK&VIB is solely responsible to pay the salaries and wages of the existing employees (i.e. the four petitioners) of CCPC as per Rules and guidelines framed by the CCPC. The petitioners are entitled to get the benefits according to Scale framed by the CCPC.

The CEO, WBK&VIB is hereby directed to disburse the salary and wages in favour of the present four petitioners according to Rules and Orders framed by the CCPC from this date. The CEO, WBK&VIB is further directed to calculate arrear, if any, in favour of them from 1.4.2010 i.e. the date of taking over management of CCPC and that amount will have to be paid to them in three consecutive monthly instalments with effect from the month of March, 2015”.

Subsequently, on the claim of the petitioners for regularisation, the Deputy Secretary to the Government of West Bengal communicated to the concerned authority of KVIB the views of the Finance Department dated 12th July, 2017. It appears that Finance Department has rejected the claim of the petitioners for regularisation upon placing reliance on the judgment delivered in the case of Uma Devi by the Hon’ble Apex Court.

Since a detailed decision has been taken by the Principal Secretary as contained in his order dated 23rd February, 2015, this Court does not find any impediment in giving direction upon the concerned authority of KVIB to implement such

decision of the Principal Secretary with regard to the service benefits of the petitioners.

Accordingly, the concerned authority of KVIB is directed to implement the decision of the Principal Secretary dated 23rd February, 2015 within a period of twelve weeks from the date of communication of this order.

Though petitioners have claimed regularisation based on merger with effect from 1st April, 2010 of CCPC with KVIB but relating to appointment of the petitioners in CCPC prior to merger on 1st April, 2010 enforceable legal right of the petitioners is not established which can be protected by issuance of mandamus to the extent of regularisation as claimed. In this regard, this Court is also inclined to rely upon the judgement of **Uma Devi, reported in 2006 Vol. 4 SCC 1.**

Therefore, the claim of the petitioners for regularisation in KVIB stands rejected.

However, refusal of claim of regularisation will not fetter the right of the petitioners to get the benefits as extended by the Principal Secretary in his order dated 23rd February, 2015 as directed aforesaid.

With the above direction the writ petition stands disposed of.

The application, if any, pending also stands disposed of in view of the order passed by this Court on the main writ petition.

However, There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)