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W.P.A. 11070 of 2021

Ardhendu Shekhar Aguan

-vs-

State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. Sunit Kumar Ray

....for the petitioners.

Mr. Indranil Roy,
Mr. Kanak Kiran Bandhuyopadhyay

....for the respondent no.5.

Mr. Raja Saha,
Mr. Biswabrata Basu Mallick,
Mr. Subhabrata Das

....for the State.

The writ petition pertains to approval of appointment in the post of Group-D (Peon) in Lakshya High School (H.S.), District- Purba Medinipur (for short "said school"). On the basis of the recommendation of the School Service Commission issued under Memo dated 22nd February, 2018 and the appointment letter issued by the concerned authority of West Bengal Board of Secondary Education dated 19th April 2018 petitioner joined the post of Peon in the said school on 24th April, 2018 and worked there upto 26th April, 2018 and thereafter the petitioner as it has been submitted by Mr. Bari, learned advocate representing the petitioner that due to serious

ailment had to take leave for the period from 27th April, 2018 till 4th May, 2018 and subsequently for a longer period from 8th May, 2018 to 10th March, 2020.

It has been submitted on behalf of the petitioner that availing of such leave by the petitioner just after his joining on 24th April, 2018 created hindrance in according approval of appointment by the concerned State respondents. It has further been submitted that during the period when petitioner remained absent in the said school the said school authority took certain steps in order to get the service of a newly appointed peon if necessary by way of replacement with the nod of the concerned respondent authorities. Ultimately on joining of the petitioner on 11th March, 2020 the issue is pending before the District Inspector of Schools (S.E.), Purba Medinipur for taking decision on according approval of appointment.

The notice of this Court has been drawn to page 13 of the affidavit-in-reply used on behalf of the petitioner wherefrom it appears that a report has been furnished by the concerned Assistant Inspector of Schools (S.E.), Haldia Sub-Division

dated 1st March, 2021 wherein recommendation has been made for approval of appointment of the petitioner but subsequently from another report based on the same date of inspection on 18th February, 2021 which is at page 27 of the affidavit-in-opposition used on behalf of the State respondents it appears that completely different report has been prepared by the same Assistant Inspector of Schools (S.E.), Haldia Sub-Division. However, the subsequent report prepared by the concerned Assistant Inspector of Schools is not signed wherein the said Assistant Inspector of Schools refused to recommend the petitioner for obtaining approval from the concerned District Inspector of Schools in support of his appointment.

Mr. Bari, learned advocate appearing for the petitioner has submitted that since on the basis of same date of inspection two different reports have been furnished by the said Assistant Inspector of Schools which are contrary to each other both the reports may not be relied upon and necessary direction is required to be given upon the respondent no.3 for taking decision on approval of appointment of the petitioner.

Mr. Roy, learned advocate representing the

said school authority has submitted that it is a fact that petitioner remains absent for a considerable period of time after his joining the post of Peon on 24th April, 2018 which resulted in issuance of show cause notice to the petitioner whereby he was requested to explain his absence.

In addition thereto, letters were sent to the concerned respondent authorities for taking appropriate steps so that the said school authority can get service of a newly appointed Peon. However, in the same breath Mr. Roy has submitted that after joining of the petitioner on 11th March, 2020 on being declared fit by his physician now the situation has been completely changed and the school authority by adopting resolution dated 7th January, 2021 has decided to approach the concerned District Inspector of Schools for granting approval of appointment in favour of the petitioner. It has further been submitted on behalf of the said school that in the meantime the relevant documents have been submitted before the office of the concerned District Inspector of Schools seeking approval of appointment vide letter dated 14th January, 2021.

Mr. Das, learned advocate appears on

behalf of the State respondents and has submitted that the respondent no.3 could not proceed with the issue relating to grant of approval of appointment in favour of the petitioner in view of two contradictory reports submitted by the concerned Assistant Inspector of Schools (S.E.), Haldia Sub-Division.

In addition thereto, it has further been submitted that school authority when the petitioner was remaining absent took certain steps against the petitioner so that the impasse can be brought to an end. However, on posing query to Mr. Das that how two contradictory reports were furnished by the concerned Assistant Inspector of Schools (S.E.), Haldia Sub-Division based on same inspection this Court is unable to get any satisfactory answer.

In view of the submissions made on behalf of the rival parties and upon considering the materials available on record, it appears that petitioner has been duly selected by the concerned authority of the School Service Commission and recommendation memo has been issued in his favour on 22nd February, 2018 pursuant thereto the concerned authority of the West Bengal Board

of Secondary Education issued appointment letter on 19th April, 2018. Based on such documents petitioner joined the institution on 24th April, 2018. However, due to mental illness petitioner could not attend the school for a considerable period of time and in support of the same medical documents have been annexed to this writ petition and the same have been considered by this Court. Ultimately on being declared medically fit petitioner resumed his duty on 11th March, 2020 and from such date of joining it has been submitted by the learned advocate representing the school authority that he is regularly attending the school which prompted the said school authority to adopt a resolution dated 7th January, 2021 for forwarding the relevant documents to the office of the respondent no.3 for sanction of approval of appointment in favour of the petitioner.

It has been jointly submitted by the learned advocates representing the parties that the relevant documents which have been forwarded by the school authority vide letter dated 14th January, 2021 are pending consideration by the respondent no.3.

Since the issue has been forwarded by the

school authority vide letter dated 14th January, 2021 the respondent no.3 is directed to take decision on approval of appointment of the petitioner within the period of eight weeks from the date of communication of this order by passing a reasoned order after granting opportunity of hearing to the petitioner and the representative of the said school. The decision to be taken by the respondent no.3 shall be communicated to the petitioner within one week thereafter.

However, it has been made clear that while taking such decision the respondent no.3 shall consider the relevant medical documents to be furnished by the petitioner before the respondent no.3 in support of his contention that he was seriously indisposed at the material point of time and the respondent no.3 shall not give any credence to the reports of the Assistant Inspector of Schools (S.E.), Haldia Sub-Division since the two reports prepared by the said Assistant Inspector of Schools are self contradictory though based on same date of inspection i.e. 18th February, 2021.

With the above direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Affidavits filed on behalf of the parties are taken on record.

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

(Saugata Bhattacharyya, J.)