

ML- 24.08.2022
360 Ct.15
rkd

W.P.A. 11554 of 2021

Prabir Pramanik

-vs-

The State of West Bengal & Ors.

Mr. Bapin Baidya,
Ms Juin Dutta Chakraborty

....for the petitioner.

Mr. Swapan Kumar Dutta,
Mr. Pradyot Kumar Das

....for the State respondents.

Petitioner is seeking regularization in the post of Group-D in Joynagar Institution, District-South 24 Parganas (hereinafter referred to as the "said school").

According to the learned advocate representing the petitioner, he was appointed by the Managing Committee of the said school in the post of Group-D as per managing committee resolution dated 1st February, 2003 and he discharged duty as Group-D staff for more than ten years. Therefore he has made a prayer before the District Inspector of Schools (SE), South-24 Parganas vide representation dated 22nd September, 2014 for his regularization on the post of Group-D.

Mr. Dutta, learned Additional Government Pleader appears on behalf of the State respondents

and has opposed the prayer of the writ petitioner on the ground that the petitioner was not appointed against the sanctioned post on observance of the relevant recruitment rules prevalent at the material point of time.

It has also been submitted that the concerned District Inspector of Schools (SE), South-24 Parganas did not issue any prior permission permitting the said school authority to proceed with the selection process for filling up the post of Group-D therefore according to the State respondents petitioner has got no right to be absorbed in the post Group-D.

Considering of the submissions made on behalf of the parties, it appears that the appointment of the petitioner on the post of Group-D was *de hors* the recruitment rules as a result whereof no enforceable right has been created in favour of the petitioner warranting issuance of mandamus in order to protect his service by giving direction for regularization.

In this regard, reliance has been placed on the judgment of the Hon'ble Apex Court delivered in the case of State of Karnataka -vs- Uma Devi (3) reported in 2006 Vol. 4 SCC 1.

In view of the aforesaid consideration, the

writ petition stands dismissed.

However, there shall be no order as to costs.

Affidavits filed by 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.)