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05.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 10736 of 2022

**Anupam Biswas
-versus
The State of West Bengal & Ors.**

**Mr. Uday Betal,
Mr. Vivekananda Bose,
Ms. Deblina Chattaraj.
...For the Petitioner.**

**Mr. Saptansu Basu, Sr. Adv.,
Mr. Sayan Sinha.
...For the
Bongaon Municipality.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of either the State respondents or the State Urban Development Agency in spite of service.

The petitioner was engaged in the post of Manager-Skills Micro Enterprises, MIS & ME at CMMU under DAY-NULM of Bongaon Municipality by a letter of engagement dated 26th February, 2021.

The engagement is temporary in nature and subject to termination with at least one month's notice from both the Municipality as well as the incumbent. The engagement is for a period of one year or until further communication whichever is earlier.

The petitioner submits that though there is no formal letter of renewal of engagement after completion of one year on 25th February, 2022 but the Municipality permitted the petitioner to continue with his duty.

The petitioner was arrested in connection with a criminal case being Bongaon Women P.S. Case No. 06 of 2022 under Sections 417/376 IPC. He was in custody from 12th April, 2022 till 30th April, 2022.

The Chairman of Bongaon Municipality by a communication dated 5th May, 2022 instructed the petitioner not to join the work until further notice referring to the police case that was pending against him.

The petitioner is aggrieved by the same.

According to the petitioner, since there is no order from the competent court restraining him from joining his service, the Municipality ought not to restrain the petitioner from joining service.

It is the further case of the petitioner that the initial service is for a period of two years. There is no formal order terminating the service of the petitioner.

The petitioner submits that a representation made before the Director, State Urban Development Agency is pending consideration.

Learned senior advocate appearing for the Bongaon Municipality submits, upon instructions, that the initial letter of engagement clearly mentions that the period of engagement is for a period of one year or until further communication whichever is earlier. The

service of the petitioner is contractual and his service has not been renewed after a period of one year.

No communication has been made by the Municipality to the petitioner after completion of one year of service and presently the service of the petitioner is not required by the Municipality.

It has been submitted that the petitioner is not an employee of the Municipality and the State Urban Development Agency is the recruiting authority.

As there is no communication from the end of State Urban Development Agency, the Municipality is not in a position to renew the contract of the petitioner.

Reliance has been placed upon a communication dated 25th August, 2022 by the Director, State Urban Development Agency to the Chairman of Bongaon Municipality with regard to the renewal of the service of the petitioner mentioning that the City Level Selection Committee has been constituted for dealing with the issue of rejoining of the contractual post of the petitioner in terms of the Government Notification No.761/MA/P/C-10/3S-30/2013 dated 17th November, 2014.

It appears from the submission made on behalf of both the parties that the service of the petitioner is contractual and temporary in nature. There is no renewal of the service of the petitioner after completion of one year. The service is yet to be formally terminated by employer.

The prayer of the petitioner for renewal of his service is pending consideration at the end of the State Urban Development Agency.

The fact that the petitioner has been permitted to continue his service after completion of one year does not entitle him to be retained in service upon development of certain other events.

In view of the above, the instant writ petition is disposed of by directing the respondent No. 4 being the Additional Director, the State Urban Development Agency and Additional Mission Director, National Urban Livelihoods Mission to take a decision with regard to the prayer of the petitioner for renewing his contract of service in accordance with the service guidelines of the petitioner.

It will be open for the respondent No.4 to relegate the matter to the City Level Selection Committee for taking a decision in the matter.

A decision shall be taken in the matter by the aforesaid respondent at the earliest but positively within a period of three weeks from the date of communication of a copy of this order.

The learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 10th May, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The said respondent shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner praying for renewal of his service and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The communication dated 25th August, 2022 issued by the Secretary, State Urban Development Agency to the Chairman, Bongaon Municipality be retained with the records.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)