

08.09.2022
Court No. 19
Item no.23
CP

W.P.A. No. 13946 of 2021

Safi Uddin Molla

Vs.

The State of West Bengal & Ors.

Mr. Subrata Karmakar

...for the petitioner.

Mr. M. Malhotra

Mr. Rajat Dutta

...for the State.

The petitioner alleges that although the Netaji Gram Panchayat had engaged the petitioner to operate the sluice gate since 2017, the petitioner has not been given any permanent employment. It is his further allegation that a meagre amount is being paid, contrary to the government notifications, applicable to daily rated and temporary workers.

Mr. Dutta, learned advocate for the State, submits that on a private arrangement between the pradhan and the petitioner, the petitioner was engaged. The case for regularization of the petitioner, cannot be considered. He submits that the decision was entirely within the domain of the panchayat authorities and the government had no role to play. Regularization as a matter of right cannot be claimed in case of a back door appointment. He further submits that the petitioner has not been able to

produce any documents indicating the terms and conditions of his engagement. Mr. Dutta further submits that the question whether the notifications of the government with regard to certain benefits given to the contractual/casual and daily rated workers in government and other establishments, would apply in the case of the petitioner, is also doubtful as the records do not reveal the method by which the petitioner had been engaged.

The question of regularization, in this case, does not arise as the panchayat had resolved to engage the petitioner by way of a private arrangement which had been accepted by the petitioner.

The petitioner has not been able to furnish any letter of appointment, nor does it appear that the petitioner was engaged under any particular scheme. It also does not appear that a permission of the government had been sought before engaging the petitioner. The process of recruitment, is also not before the court.

Thus, this court does not find any reason to allow the prayer for regularization or the prayer for fixation of the remuneration of the petitioner in terms of the government notifications.

However, the petitioner claims that he has been serving at a minimum wage and prays for

enhancement of the same. Such prayer can be considered by the appropriate authority.

The petitioner is granted liberty to approach the Netaji Gram Panchayat which had engaged the petitioner, for enhancement of his pay. If such approach is made and the petitioner is still continuing as a sluice gate operator in terms of the resolution of the gram panchayat, the case of the petitioner shall be considered sympathetically and upon taking into consideration the high rate of inflation and the rise in the cost of living.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. This order shall not debar the petitioner from participating in any recruitment process or from being considered for appointment in accordance with law.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)