

Court No. 22
07.7.2022
(Item No. 19)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 14699 of 2017

Mukta Hira Khatun & Ors.
VS
The State of West Bengal & Ors.

Mr. Kallol Kumar Basu
Mr. Ashim Kumar Chakraborti
..... for the petitioners
Mr. Prabir Kumar Ray
..... for the State

Mr. Kallol Kumar Basu, learned counsel appears for the writ petitioners.

Mr. Prabir Kumar Ray, learned advocate appears for the State.

The petitioners claimed that they were appointed as **“Linked Personnel”** in different Health Sub-Centre under the concerned Medical Officer of Health Department in the district of Murshidabad. The petitioners were working since 2005 - 2009 as such. Initially they were paid at a sum of Rs.100/- per month as honorarium and since August 2010 such honorarium was increased to Rs.216/- per month by the State authority. The petitioners claimed that they received such honorarium till August 2012 without any interruption and thereafter since September 2012 such honorarium were not paid to them. Previously a writ petition was moved being **WP 8825 (W) of 2016 (Mukta Hira & Ors. Vs. The State of West Bengal & Ors.)**, by an order dated July 15, 2016 passed by a co-

ordinate Bench the said writ petition was disposed of with a direction upon the Chief Medical Officer of Health, Murshidabad to dispose of the representations, as was directed to be filed with a reasoned order.

Pursuant to the said direction dated July 15, 2016 the concerned Chief Medical Officer of Health disposed of the representation by his reasoned decision dated November 22, 2016, where it was observed that -

“After going through all the relevant papers and it is concluded that as the allotment of fund for the scheme of Link Personnel @ Link Worker has been stopped from the Department of Health & Family Welfare since 2012 so it is automatically stopped. So, there is no scope of any engagement or any payment of honorarium to the Link Persons @ Link Workers since then & till Now.

Hence, the application of the petitioner(s) cannot be considered in their favour. The relief as sought for in this application of the petitioner cannot be granted and as such the applications are not considered.

The petition is thus disposed of.”

Being aggrieved by the said decision the instant writ petition was filed.

Affidavits were exchanged in this writ petition. Copy of the affidavit-in-reply filed today, taken on record.

Mr. Kallol Basu, learned advocate for the petitioners submits that, the petitioners are still working and had not been paid the honorarium since September, 2012. The petitioners had a legitimate expectation to receive the honorarium under the scheme, for which they were appointed by the State and still are working. Since the concerned Health Department of the State had received service from the petitioners they must be paid accordingly.

Mr. Prabir Kumar Ray, learned State counsel referring to the said decision dated November 22, 2016, which is impugned herein submits that, the temporary employment was generated under a specific health scheme introduced by the State. Since 2012 there was no allotment of fund for the said scheme for **“Link Personnel”**. As such, there was no scope for making any payment of honorarium to the petitioners. The instant writ petition is, thus, misconceived and should be dismissed.

After considering the submissions made by the learned counsel appearing for the parties and on perusal of records, it appears to this Court that, it was a specific scheme introduced by the State for obtaining service from **“Link Personnel”** in the Health Department. The scheme had become inoperative and no fund is allotted for the scheme. To introduce such type of scheme or to withdraw the same by the State, is a matter of policy decision. The Writ Court in exercise of its high prerogative writ

jurisdiction shall be very slow in interfering to such policy decision. Of course exceptions are there, where a policy decision can be interfered with. However, from the facts of this case, this Court is of the firm opinion that, there was no mala fide practiced for withdrawal of or not to continue with the said scheme. The said **“Link Workers”** were also not a permanent appointee. The petitioners being such **“Link Workers”** cannot claim or exercise any right over the said scheme.

Honorarium is not wage, petitioners cannot claim any right over such **honorarium**.

This Court finds no infirmity in the said decision dated November 22, 2016. The same is not interfered with and accordingly stands affirmed.

In view of the foregoing discussions and reasons, the writ petition **WPA 14699 of 2017** stands dismissed. All connected applications are also disposed of accordingly.

There shall, however, be no order as to costs.

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

(Aniruddha Roy, J.)