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23.11.2022
S.D.

W.P.A. 15018 of 2022

**Somdatta Halder
Vs.
State of West Bengal & Ors.**

Mr. Srijib Chakraborty
Mr. Aditya Mondal

..For the Petitioner

Mr. Tapan Kumar Mukherjee, Sr. Adv.,
Mr. Rajat Dutta

...For the State

The petitioner applied for the post of Laboratory Technician (Blood Bank) in Basirhat District Hospital, District – North 24 Parganas. He was appointed on a contractual basis on June 11, 2018 till March 31, 2019. The petitioner's service was terminated with effect from October 10, 2018. Challenging the said termination, the petitioner filed a previous writ petition being W.P. No. 6626 (W) of 2019. By an order dated April 11, 2019, a Coordinate Bench of this Hon'ble Court disposed of the writ petition by directing the respondent no. 2/Director of Health Services, Government of West Bengal to consider the representation dated November 15, 2018 made by the petitioner.

Mr. Chakraborty, learned counsel appearing on behalf of the petitioner submits that the reasoned order that was passed on September 26, 2019 in pursuance to the directions given by the Hon'ble Coordinate Bench on April 11, 2019 did not take into account the relevant grievances of the petitioner. The grievances of the petitioner were placed before the Director of Health Services by a representation dated August 14, 2019, which was adjourned date for the personal hearing given to the petitioner.

The Director of Health Services terminated the services of the petitioner on the ground that qualification of the petitioner being a diploma holder in Medical Laboratory Technology from the Indian Rural Medical Sciences under Bharat Sevak Samaj was not acceptable being an institution which had no affiliation with the State Medical Faculty of West Bengal. The Joint Director of Blood Safety after considering the certificate produced by the petitioner opined that the incumbent did not satisfy the essential criteria prescribed by NACO (National Aids Control Organization) and DMLT. The institution was neither affiliated by the State Medical Faculty, Government of West Bengal nor by the University Grants Commission nor by the All India Council for technical education.

He further submits that the said reasoning of the Director of Health Services/respondent no. 2 was not in accordance with the advertisement published on November 10, 2017 by the District Level and Family Welfare Samity, the office of the Chief Medical Officer of Health, Basirhat Health District. Pursuant to the said advertisement, the candidates were *inter alia* required to possess a degree/diploma from University/Institution recognized by the Central Government or the State government. The institution from which the petitioner obtained his degree was undoubtedly recognized by the Central Government. He refers to pages 51-55 of the writ petition in support of his contentions that the institution from which the petitioner was granted the diploma was recognized by the Central Government. Therefore, the rejection on the ground that the institution was not authorized by the State Government was untenable.

Mr. Mukherjee, learned Additional Government Pleader appears on behalf of the State authorities submits that the institution was not recognized by the State Medical Faculty of West Bengal. Neither it was recognized by the National Aids Control Organization nor by the University Grants Commission nor by the All Indian Council for technical education which was a statutory requirement.

The Hon'ble Coordinate Bench had only directed the respondent no. 2 to consider the representation that was pending and, therefore, the representation dated August 14, 2019 could not be considered at the time when personal hearing was given to the writ petitioner. He submits that a personal hearing was given to the writ petitioner and a reasoned order was passed by the respondent no. 2 keeping the extant Rules, Regulations, Policies of the State Government in mind. Therefore, there was no violation of the order passed by the Coordinate Bench.

Having considered the rival submissions of the parties and the materials placed on record, this Court feels that justice will be sub-served if the representation dated August 14, 2019 made by the petitioner is considered in the light of the essential qualifications for Lab Technicians (Blood Bank) as stipulated in the advertisement dated November 10, 2017 issued by the CMOH, Basirhat Health District along with the extant Rules, Regulations and the Policies of the State Government.

Let such representation be considered by the respondent no.2/the Director of Health Services, Government of West Bengal within a period of six weeks from date upon giving a personal hearing to the petitioner.

It is made clear that the documents relied upon by the petitioner in the writ petition will be taken into consideration at the time of the personal hearing given to the petitioner. The said order be communicated within two weeks of passing thereof.

In the light of the discussions above, the impugned/reasoned order dated September 26, 2019 is set aside and quashed.

With the directions aforesaid, **W.P.A. 15018 of 2022** is **disposed of**.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all the formalities.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

(Lapita Banerji, J.)