

WPA 15014 of 2015

**Sri Ashim Mondal
Vs.
The state of West Bengal & Ors.**

**Ms. Prajaaini Das
Mr. Subhas Chandra Dutta
...for the petitioner**

**Mr. Tarak Karan
...for the State**

Petitioner is working in the post of night guard on casual basis from the year 2012 as it has been submitted by the learned advocate representing the petitioner. In support of such contention reliance has been placed on a letter dated 5th May, 2015 issued by the Block Development Officer, Krishnaganj Development Block, Nadia addressed to the District Magistrate Krishnagar, Nadia wherein it has also been stated that the petitioner is working in the office of the Block Development Officer. It has been contended on behalf of the petitioner that appointment of the petitioner on casual basis as night guard was made by the authorities, therefore, by this time his service should have been regularised and he should have been placed on regular pay roll upon grant of necessary approval.

State-respondents are represented by Mr. Tarak Karan, learned advocate who has opposed the prayer made on behalf of the petitioner relating to regularisation on the ground that initial appointment of the petitioner was *dehors* the extant recruitment rules.

This Court has heard the learned advocates representing the parties and perused the relevant materials available on record. Considering the prayer made in this writ petition, this Court has made an attempt to find out whether initial appointment of the petitioner as night guard in the office of the Block Development Officer, Krishnaganj has been made following the rules or not. Nothing has been demonstrated before the Court that such appointment was made on compliance of the relevant recruitment rules. In absence of observance of recruitment rules in the matter of appointment of the petitioner, nothing turns on the letter dated 5th May, 2015 issued by the concerned Block Development Officer.

In view of aforesaid situation, no enforceable right has been established in favour of the petitioner warranting issuance of mandamus in order to protect the claim of the petitioner relating to permanency in service. In this regard reliance has been placed on the judgement of the Apex Court in the matter of **State of Karnataka Vs. Uma Devi (3)** reported in **2006 (4) SCC 1**.

Accordingly, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)