

06.09.2022
DL-3
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18842 of 2021

Abhikesh Ghosal
Vs.
Union of India & Ors.

Ms. Debjani Roy,
Mr. Sourav Mondal
.....for the petitioner.

Ms. Susmita Saha Dutta
.....for Union of India.

The grievance in this writ petition arises out of the fact that even though the petitioner has been working as an outside driver for a departmental vehicle in the Department of Posts, India since 2013, he was suddenly disengaged from his services. His continuity of engagement was disrupted on April, 2021 without any reason. He was asked to hand over the keys and quit the job. The petitioner claims that he has been discharging his duties satisfactorily for almost 10 years. The petitioner made a representation on April 27, 2021, but such representation is still pending.

Ms. Roy, learned counsel, appearing for the petitioner submits that without any reason the petitioner's services were suddenly discontinued. An application under Right to Information Act, 2005 was made for production of the call book since 2013 to

evidence continuity of the service of the petitioner, but the same was rejected by the Superintendent of Post Offices and CPIO, Birbhum Division.

An appeal was preferred under Section 6(1) of the Right to Information Act, 2005 and by an order dated April 12, 2022, the CPIO & Assistant Director of Postal Services directed the CPIO & SPO, Birbhum Division to provide the required information within 7 days. Despite the said order, no information regarding the call book was given to the writ petitioner. She submitted that someone else was engaged to drive the departmental vehicle even though the writ petitioner discharged his duties satisfactorily.

Ms. Susmita Saha Dutta, learned counsel, appearing on behalf of respondents/Union of India argues that there was no stigma attached to the discontinuation of the services by the writ petitioner. He was engaged as a daily rated “outside driver” and since his services were not required and he was asked to hand over the keys to the departmental vehicle. She relies on the office memo dated February 8, 2021 to contend that the writ petitioner has no legal right and he was paid on the daily rate of wages of “outside driver” of inspection vehicles/mail vans. His wages were not calculated by way of the statutory

provisions, like Minimum Wages Act, etc. as per the office memo.

Having considered the rival submissions and the materials placed on record, I find that there is a document to show that the writ petitioner has been engaged as an outside driver since 2013. The said document has not been disputed by the respondents. At the time of retirement of the regular driver of the Postal Department in 2016, the petitioner was engaged from time to time as and when required by the Postal Department, to drive the departmental vehicle. Hence, the writ petitioner's representation dated April 27, 2021 is required to be considered since he has been discharging his duties since 2013.

In the light of the findings above, the Superintendent of Post Offices is directed to consider the representation of the writ petition dated 27th April, 2021, within four weeks from the date of communication of this order, in accordance with law. He is directed to pass a reasoned order. In the event an adverse finding is made, the same shall be communicated to the writ petitioner within five weeks from the date of communication of the order.

With the directions aforesaid, the writ petition, being WPA 18842 of 2021, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)