

16.02.2022
Court No. 19
Item no.02
CP

WPA 20527 of 2021

Sandip Kumar Singha Roy
Vs.
The State of West Bengal & ors.

Mr. Prosenjit Mukherjee
Ms. P. Dutta
.....for the petitioner.

Sk. Md. Galib
.....for the State.

The petitioner has challenged the termination order dated November 3, 2020, issued by the Executive Officer, Jangipara Panchayat Samity, Hooghly (hereinafter referred to as 'the panchayat samity'). Admittedly, the petitioner was engaged as a 'stop gap arrangement' by the Block Development Officer, Jangipara by an engagement letter dated July 29, 2013. The terms and conditions of service as per the engagement letter show that the petitioner was engaged on daily wages and was to perform the work of a correspondence clerk till a permanent correspondence clerk was appointed in the establishment. The letter of engagement clearly stated that the permanent post was lying vacant, and despite several requisitions by the Block Development Officer for filling up the post, the higher authorities did not approve the request for filling up of the said post. As such, to continue the work of the

office smoothly till a permanent correspondence clerk was appointed, the petitioner was engaged.

The petitioner submits that the termination was without any hearing. No show cause notice was issued.

The law has been well-settled that if a casual/daily rated employee or a temporary employee is terminated for grounds other than those which are stigmatic or involve acts of moral turpitude, hearing need not be given. In this case, the termination notice indicates that because the panchayat samity could not afford to pay the petitioner from its own funds, due to paucity of funds, the services of the petitioner was discontinued. There is no motive or foundation in the termination order.

The contention of the petitioner that the petitioner was appointed as a contractual worker and the memorandum dated September 16, 2011, and all such subsequent memoranda should govern the terms and conditions of service of the petitioner, is not borne by the records. Records do not reveal that the petitioner was ever treated to be covered by the said memorandum. Although, the name of the petitioner did figure in the list of casual employees under the concerned block and enhancement of remuneration was proposed by the Block

Development Officer, this court does not find any approval of the higher authorities which would indicate that the petitioner had been treated as a contractual employee under a regular government establishment.

Mr. Galib, learned advocate appearing on behalf of the State respondents, submits on instruction from the Block Development Officer that the petitioner was engaged on a temporary basis as a 'stop gap arrangement' and his services could not be continued in view of the paucity of funds. That the memorandum relied upon was not applicable. The instructions of Mr. Galib are kept on record.

Under such circumstances, I do not find any reason to pass an order by interfering with the order of termination. The order impugned does not cast any aspersion or stigma on the petitioner. Moreover, the order of termination was passed way back in 2020.

Instead of keeping the matter pending, the writ petition is disposed of with a liberty to the petitioner to approach the Joint Secretary, Panchayat and Rural Development Department, Government of West Bengal, ventilating his grievances and if the said Joint Secretary, holds upon hearing the petitioner as also the Block Development Officer, Jangipara Block,

that the services of the petitioner would be guided by the memorandum dated September 16, 2011 and all such memoranda issued from time to time as an extension thereof, in that case, the consequences will follow and the authority shall pass a reasoned order accordingly. Thereafter as per the result of the decision, steps shall be taken with regard to the termination order.

The authority while deciding the issue shall not be guided by the order of termination, but shall decide the issues independently upon hearing the parties and on the records. The contention of the petitioner about the applicability of the memoranda and the terms and conditions of service with regard to termination as applicable to contractual and temporary workers engaged in government establishments, shall be decided with specific reference to the records and letters written by the Block Development Officer.

The authority shall also decide as to how the petitioner, whose name was forwarded with a recommendation for enhancement of his remuneration could be terminated without following the memoranda dated September 16, 2011 and February 25, 2016. On the one hand the Block Development Officer recommended enhancement of

remuneration of the petitioner on the basis of the said memoranda and on the other hand, the petitioner was not treated to be covered by the relevant memoranda at the time of termination. Such anomaly must be addressed in the order to be passed and specific findings must be recorded.

The writ petition is, thus, disposed of. There shall be no order as to costs.

A reasoned order shall be passed and communicated to the petitioner. The entire exercise shall be completed within two months from date of receipt of the petitioner's representation.

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

(Shampa Sarkar, J.)