

06.07.2022

Court : 04
Item : PB-03
Matter : WPLRT
Status : DD
Transcriber: nandy

**WPST 153 of 2019
with
CAN 1 (10852) of 2019**

**Jiban Kumar Ganguly
Vs.
The State of West Bengal & Ors.**

**Mr. Kamalesh Bhattacharya, Advocate
Mr. Aninda Bhattacharya, Advocate**
.....for the Petitioner
**Ms. Kakali Samajpati, Advocate
Mr. Susanta Paul, Advocate**
.....for the Respondent-State

CAN 1 (10852) of 2019

This is an application for restoration of the writ-petition being WPST 153 of 2019, which was dismissed for default on November 4, 2019.

After perusal of the averments made in the instant application and upon hearing the learned Counsel for the petitioner, we are satisfied that the writ-petitioner was prevented by sufficient cause in not appearing on the date when the matter was dismissed for default.

Therefore, the application for restoration being **CAN 1 (10852) of 2019** is **allowed**. The writ-petition being **WPST 153 of 2019** is **restored** to its original file and number.

WPST 153 of 2019

By consent of the parties, the writ-petition is taken up for hearing.

A purely temporary employee who was engaged for a specific job for a brief period had approached the Tribunal for consideration of his candidature and disbursement of all the emoluments and/or benefits attributable to the permanent employee. Before the Tribunal, it was divulged that his service was subsequently terminated on February 2, 2012 and such engagement was not continued.

It is submitted that he was discharging his duties in the said department since several years and, therefore, he has acquired a right to be treated as permanent employee and his service cannot be terminated by a stroke of pen. Several facts have been disclosed before us which does not appear to have been pleaded in the tribunal application filed before the Tribunal. The Tribunal has found that since the engagement is purely on temporary basis for expediting the computerization of land records and the moment the services are no longer required, the petitioner cannot claim any right of regularization of such engagement.

Be that as it may, even if the finding of facts and the reasonings given in the impugned order appears to be somewhat improper yet the writ-court may refuse to interfere if the ultimate decision is found to be correct. Even if we take into account the stand of the writ-petitioner that he has been working in the department for a pretty long time, that also does not give himself a right of permanent status nor gives any

cause of action for the termination simpliciter without putting any stigma or aspersion. The moment the engagement of the petitioner is found purely on temporary basis and such engagement has been discontinued, we do not find any right has accrued to the petitioner to treat his engagement as permanent and equated with the permanent employee of the said department. Even a letter annexed to the writ-petition would reveal that he was performing the duty as 'Temporary Computer Operator' and his engagement was extended from time to time.

We thus do not find that such temporary employee having engaged for a specific purpose, can claim the status of a permanent employee and, therefore, once the engagement has discontinued, we do not find any infirmity in the decision of the Government.

The Tribunal, in our opinion, has taken care of the disbursement of the emoluments attributable to the job entrusted upon the writ-petitioner to be paid within the time frame which in our opinion does not require any interference. Such person is entitled to all the emoluments attached to such job and the moment he was discharged such duties; he is entitled to the emoluments which cannot be withheld by the authorities.

However, since the writ-petition was pending before this Court, the disbursement could not be made despite the order of the Tribunal.

We, therefore, direct the concerned authorities to disburse all the emoluments and benefits admissible to the writ-petitioner in terms of the order of the Tribunal within three weeks from the date of communication of this order.

The writ-petition being **WPST 153 of 2019** is **disposed of**.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)