

46 08.9.2022  
Sc Ct. no.22

**WPA 20821 OF 2019**

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Sri Sunil Ray

Vs.

The State of West Bengal & Ors.

Mr. Dyutiman Banerjee

....For the Petitioner

Ms. Lipika Chatterjee

....For the State

Affidavit-of-service, filed in Court today, is taken on record. From the affidavit-of-service it appears that a notice was served in 2009 which was received by the office of the learned Government Pleader.

Be that as it may, today when the matter was called on, none appears for the respondents, nor any accommodation has been sought for.

Ms. Lipika Chatterjee, learned counsel who normally appears for the State is present in Court and is requested to appear and hold the brief. Her appointment may be regularised accordingly in the matter.

The petitioner is a casual worker in Group-D category at **Morgra Uttam Chandra High School (H.S.)** since 1999. In view of the Memorandum issued by the State dated January 24, 2006, **Annexure-P3** to the writ petition, the petitioner claims regularization of his employment. Claiming the same prayer though referring to a different **Government Order dated April 23, 2010**, the petitioner filed a previous writ petition being **WPA**

**25246 (W) of 2012.** A coordinate Bench found that the said Government Order dated April 23, 2010 would not apply in the case of the petitioner and the petitioner was found to be not entitled or eligible to get benefit of the said Government Order, the writ petition was dismissed.

In this second round of writ petition, the petitioner claims that under the Government Memorandum dated January 24, 2006, **Annexure-P3** to the writ petition, he is eligible to have his employment regularized.

Be that as it may, after considering the submissions made on behalf of the petitioner and on perusal of the materials on records it appears to this Court that justice would be subserved if the long pending representation of the petitioner dated July 16, 2019, **Annexure-P4** to the writ petition is directed to be considered by the appropriate authority of the respondents strictly in the light of the said **Memorandum dated January 24, 2006, Annexure-P3** to the writ petition strictly in accordance with law.

In view of the above, the respondent no.4 is directed to consider the said representation of the petitioner dated July 16, 2019, **Annexure-P4** to the writ petition in the light of the said Memorandum dated January 24, 2006, **Annexure-P3** to the writ petition strictly in accordance with law upon giving a prior hearing notice of at least seven days to the petitioner and shall pass its reasoned decision/order on the issue.

The question of applicability of the said Memorandum dated January 24, 2006 in the case of the petitioner shall be considered first by the respondent no.4.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.4 within a period of ten weeks from the date of communication of this order.

The respondent no.4 then shall communicate its decision/order to the petitioner within a further period of two weeks from the date of the said reasoned decision/order to be passed.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioner in this writ petition in any manner. All points are kept open to be urged before the respondent no.4 to decide with its reasoned decision/order, strictly in accordance with law.

Since affidavits are not called for, the allegation made in this writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition, **WPA 20821 of 2019** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

**(Aniruddha Roy, J.)**