

16.12.2022
Court No. 19
Item no.12
CP

WPA No. 23566 of 2018

Dr. Janardhan Kumar Pandey
Vs.
The State of West Bengal & Ors.

Mr. Tapash Kumar Mondal

...for the petitioner.

Mr. Rabiul Islam

...for the State.

The writ petition has been filed challenging a Memorandum dated July 16, 2012. The said Memorandum fixed the entry age for part-time Homoeopathic/Ayurvedic Medical Officer in gram panchayat dispensaries to be less than 65 years and the exit age to be 65 years.

According to the petitioner, such Memorandum should be set aside as the petitioner was being deprived from continuing to work as a part-time Homoeopathic Doctor after he attained the age of 65 years.

At present the petitioner is 72 years old and he urges this court to pass necessary orders setting aside the policy decision of the government by which the upper age limit for exit from the post of part-time Homoeopathic/Ayurvedic Doctors had been fixed.

The authority has the power to decide the terms and conditions of service of persons to be appointed

under it. In every service there is a fixed age for entry and exit. The court does not find any arbitrariness or illegality in the Memo dated July 16, 2012. The same is a policy decision which fixes the age of entry and exit to the service. It is neither discriminatory nor mala fide.

The petitioner's further case is that upto 2019, the pradhan of the Milki Gram Panchayat, Malda allowed the petitioner to render his service in the capacity of a part-time Homoeopathic Doctor. However, there is no written communication indicating such arrangement. There is also no order of extension.

Even if the petitioner was continuing after 65 years and was permitted by the concerned gram panchayat to do so, the same was entirely a private arrangement between the petitioner and the panchayat authorities. For this, the State exchequer cannot be burdened and the court cannot direct payment of the honorarium. The Pradhan had done so at his own risk and peril. There is no official communication in this regard from the panchayat authorities.

Thus, the petitioner is not entitled to any honorarium from the State exchequer after attaining the age of 65 years. No cause of action has arisen which would persuade the court to invoke its power of judicial review in this case.

A private arrangement between the petitioner and the Pradhan cannot be the foundation of the writ petition.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)