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(sanjay)
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 26503 of 2022

Bhiku Mondal
Vs.
The State of West Bengal & Ors.

Mr. Sujit Kumar Ghosh,
Ms. Pataakashree Roy for the petitioner.

Mr. Pinaki Dhole,
Mr. Avishek Prasad ... for the State.

The petitioner claims to be working as a Home Guard under the Superintendent of Police (Home Guard) Malda Police Station. The petitioner has made representations before the authorities concerned for voluntary retirement. The petitioner has stated in his several representations between June 2021 and June 2022 that he has been suffering from various medical ailments including problems regarding sugar, pressure and heart.

Mr. Ghosh, learned counsel appearing on behalf of the petitioner submits that despite the various representations the petitioner's case for voluntary retirement has not been considered by the authorities concerned.

Mr. Dhole, learned counsel appearing on behalf of the State respondents submits that the petitioner made a prayer for re-instatement before the Superintendent of Police, Home Guard (HG), Malda. He relied on a certificate

issued by the Medical Officer, Police Hospital, Malda dated October 27, 2022 in support of his prayer that he was medically **fit** and therefore, the prayer for reinstatement should be considered. The Medical Officer declared the petitioner to be free from all diseases and therefore, “*medically fit*” to join duty.

Based on such medical fitness report the petitioner was directed to join the duty vide office order dated November 1, 2022. A copy of the written instructions handed over in Court by Mr. Dhole, learned counsel appearing on behalf of the respondents, is retained with the records. The said order of re-instatement along with the prayer of the writ petitioner for the same has not been brought on record by the petitioner. The date of affirmation of the writ petition is November 21, 2022, i.e. after the date of joining.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that the petitioner has approached this Court with unclean hands. The petitioner has suppressed the relevant material facts regarding the prayer for reinstatement based on medical report issued by the Medical Officer, Police Hospital, Malda dated October 27, 2022. The petitioner was allowed to rejoin his services by office order dated November 1, 2022. The petitioner has affirmed the writ petition on November 21, 2022.

In the light of the discussions above, the writ petition, being **WPA 26503 of 2022**, is **dismissed**.

The conduct of the petitioner is deprecated by this Court. Such conduct disentitles the writ petitioner to an equitable relief.

Since no affidavits have been directed to be exchanged in the said writ petition, all the allegations contained therein, are deemed not to have been admitted by the parties.

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.)