

21.04.2022
Item No.16
Court No.6.

AB (k) **M.A.T. 1636 of 2018**

**With
I A CAN 1 of 2019
(Old CAN 6847 of 2019)**

**Tapan Kumar Roy
Vs
The State of West Bengal & Others**

Mr. Subir Sanyal,
Ms. Sumouli Sarkar ...for the Appellant.

By consent of the parties, the appeal and the application are taken up together for hearing.

In the year 2017, the appellant approached this Court by filing a writ petition praying, inter alia, for his absorption as a permanent employee under the respondents in terms of a memo no.9008-F(P) dated September 16, 2011. The appellant claimed that he had been working under the respondent no.3 as a cash-collector in relation to different loans advanced by the respondent no.3 under some government schemes.

The said petition was disposed of by a learned Single Judge directing the appellant to submit a fresh representation before the relevant Block Development Officer. It was directed that the Block Development Officer would take a decision in respect of the representation of the writ petitioner in accordance with law within six weeks after giving an opportunity of

hearing to the writ petitioner or his authorised representative.

In compliance with the said order dated August 30, 2017, the relevant Block Development Officer took up the case of the appellant and by an order dated October 31, 2017, rejected the claim on the ground that the appellant did not fulfill the mandatory requirement of the memorandum no.9008-F(P) dated 16.09.2011 and hence, he was not eligible to get the benefit of the said memorandum.

The said order dated October 31, 2017, was challenged by the appellant before the learned Single Judge and by the order impugned in this appeal the learned Single Judge dismissed the writ petition.

The learned Single Judge observed that before the Block Development Officer, the appellant could not furnish any document apart from a certificate of the then Joint Block Development Officer. The said certificate dated February 19, 2009, was not clear with regard to the nature of engagement of the appellant and the date of his joining the service.

Before us, Mr. Sanyal, learned advocate appearing for the appellant, submits that the appellant is no more inclined to press his prayer for regularisation or absorption in a permanent post. All that he is seeking is the release of his remuneration for the period he actually worked under the respondents.

We are of the view that even if the appellant's service might not be regularised in terms of the extant government circulars, but if the appellant has worked for the respondents, he is entitled to receive the remuneration for the same. We are not in a position to ascertain whether the appellant actually worked or what was the period of his service. We deem it fit and proper to give a direction to the respondent no.3 to consider and ascertain the period for which the appellant worked in the relevant Block Development Office and if it is found that the claim of the appellant is genuine, the said authority will issue an appropriate order for the release of his remuneration as per applicable government circular.

The appellant should be heard by the respondent no.3 before taking any decision. The decision should be taken by the respondent no.3 within a period of one month from the date of communication of this order.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

MAT No.1636 of 2018 stands disposed of along with CAN 6847 of 2019.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)