

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10773 of 2020

Santosh Ghosh
Vs.
State of West Bengal & Ors.

Mr. Shamit Sanyal
Mr. Sabyasachi Roy
... For the petitioner

Mr. Swapan Kumar Datta, Sr. Advocate
Mr. Dipankar Das Gupta
... For the State

The petitioner says that he was engaged as a Civic Volunteer at Kaliganj Police Station on and from February 2014. While engaged as a Civic Volunteer, the petitioner received an appointment letter on 23rd February, 2015 from the office of the Additional Chief Secretary/Chief Personnel Officer of the Irrigation and Waterways Department vide memo no.214/23 – 02/2015. The petitioner approached the Executive Engineer, Bankura Irrigation Division, on 2nd March, 2015 with the said appointment letter to join thereat. At that juncture, it transpired that the appointment letter received by the petitioner was not a genuine one for which a complaint was lodged before the Bankura Police Station by the Irrigation and Waterways Department. The petitioner was implicated in a criminal case pursuant to such complaint, being Case No.73 of 2015 dated 2nd March, 2015 at

Bankura Police Station. The charges levelled against the petitioner were under Sections 468/471/472/474/120B of the Indian Penal Code, 1860. The petitioner ultimately was acquitted from the said criminal case by a judgment and order dated 13th April, 2018 passed by the learned Judicial Magistrate, 4th Court at Bankura. The petitioner alleges that he wanted to join his duties as Civic Volunteer after his acquittal but was prevented from doing so. The petitioner thereafter made a demand for justice on 19th November, 2020 and filed the instant writ petition on 14th December, 2020.

The terms of engagement of the petitioner as a Civic Volunteer are not borne out from the records. However, relying upon the findings arrived at by a Full Bench of this Court in the decision reported in (2015) 2 CHN 461 (Tanmay Ghosh & Ors. v. State of West Bengal & Ors.), it is held that the petitioner is not holding a civil post. As a Civic Volunteer the petitioner though can file a writ petition before this Court ventilating his grievances as held in Tanmay Ghosh (supra), but in the instant case, the petitioner is unable to demonstrate infringement of any right guaranteed under Part-III of the Constitution of India as envisaged under Article 226(1) of the Constitution of India. To come within the other limb of Article 226(1) of the Constitution of India to get a relief for “any other purpose”, the petitioner has to show that he has been subjected to some prejudicial act by the State. The petitioner had voluntarily given up the job and accepted the appointment

in the Irrigation and Waterways Department. The subsequent facts may be unfortunate which resulted in the petitioner being not able to pursue the appointment before the Irrigation and Waterways Department. It is equally unfortunate to notice that the petitioner had to defend himself in a criminal case for about four years and was acquitted. However, these incidents may give the petitioner a cause to seek redressal against issuance of a fake appointment letter to him but does not entitle him to seek a mandamus to allow him to join his services as Civic Volunteer. The nature of engagement is also an embargo to the petitioner seeking the relief(s) as claimed. That apart and in any event, six years had elapsed in between his quitting the services of Civic Volunteer and re-approaching the authority for being allowed to join the services.

Considering all these facts, I find that the writ petition is devoid of merit. At any rate, mandamus cannot be sought for in respect of allowing to join services in respect of a Civic Volunteer. Moreover, I do not find any reason to direct the respondents to consider the petitioner's representation to allow him to join after a gap of six years as aforesaid.

The writ petition, therefor, stands dismissed without any order as to costs.

Dismissal of this writ petition will, however, not disentitle the petitioner from seeking fresh engagement as a Civic Volunteer, if permissible in law.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)