

10.05.2022

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S.B.

Calcutta High Court
In the Circuit Bench at Jalpaiguri

WPA 142 of 2022

Md. Ziaul Quadri

-vs-

The State of West Bengal & Ors.

Mr. Debajit Kundu ...for the petitioner

Mr. Bikramaditya Ghosh

Mr. Pretom Das ...for the State

This writ petition is taken up for hearing today pursuant to the previous order passed by this court on 2nd May, 2022 when Mr. Debajit Kundu, learned advocate has prayed for accommodation on the ground of Mr. Ekramul Bari, learned advocate who is representing the petitioner.

Considering the prayer made on behalf of the petitioner on 2nd May, 2022 the matter has been fixed for hearing today, when same prayer has been made on behalf of the petitioner by Mr. Debajit Kundu, learned advocate, seeking accommodation on the ground of Mr. Ekramul Bari, learned advocate which is refused by this court and this court proceeds to hear out the matter.

The State respondents are represented by Mr. Bikramaditya Ghosh, learned advocate.

The petitioner in this writ petition has prayed for approval of appointment in the post of clerk in a non-government aided school based on appointment letter dated 28th January, 2002 issued by the Secretary, Muraliganj Junior High School, District- Darjeeling. By the said appointment letter, the petitioner was asked to join within seven days and the petitioner joined the post on 4th February, 2002. It is claimed on behalf of the petitioner that from the date of joining in the post of clerk in the school in question, the petitioner has been discharging his duty regularly and therefore, this is a fit case where necessary direction is required to be given by this court for according approval of appointment of the petitioner.

It is also claimed on behalf of the petitioner that vide a letter dated 4th January, 2002, the Secretary of the said school invited applications from the desirous candidate for being appointed on the said post of clerk. Therefore, the petitioner's prayer needs to be considered.

Mr. Bikramaditya Ghosh, learned advocate appears on behalf of the state respondents has submitted that petitioner was appointed on the said post of clerk without following the recruitment rules applicable at the relevant point of time. Therefore, it has been submitted on behalf of the respondent

authorities that petitioner has no case for being considered for grant of approval of appointment.

This court has heard the learned advocates representing the parties to this writ petition and has perused the relevant materials available on record.

On perusing the appointment letter dated 28th January, 2002 issued by the Secretary of the concerned school as well as the letter dated 4th January, 2002 issued by the school authority inviting application from the eligible candidates, it appears to this court that such selection process was initiated by the concerned school authority without any prior permission of the concerned District Inspector of Schools (SE), Darjeeling.

The appointment in the sanctioned post of clerk in a non-Government aided secondary school is required to be made following the recruitment rules which in the present case as it appears have not been made on due observance of such recruitment rules.

Since the petitioner has been appointed *de hors* the recruitment rules he has no enforceable legal right which can be protected by issuance of mandamus. In this regard, reliance has been placed on the judgment of Hon'ble Apex Court in the case of **Secretary, State of Karnataka & Ors. vs. Uma Devi (3) & Ors.** reported in **2006 (4) SCC 1**.

In view of the above discussion, this writ petition stands dismissed.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)