

Sl No. 10
07.03.2022.
Ct No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction
(Via Video Conference)**

WPA 1188 of 2021

Arup Kumar Sengupta

-versus

State Bank of India & Ors.

Mr. Biplab Sengupta

... for the appellant.

Mr. Momenur Rahman

... for the Bank.

The petitioner, a retired officer of the State Bank of India, was engaged as ATM Facilitator on contract basis with effect from February 1, 2019. The contract was initially for a period of six months which was to be renewed upon the service of the petitioner being reviewed by the competent authority of the bank.

The six months initial period expired on August 1, 2019. The petitioner alleges that the review did not take place in proper time. The bank by a communication dated November 15, 2019 intimated the petitioner that his service was reviewed and the same being found to be unsatisfactory, the bank decided to discontinue his service with effect from January 1, 2020.

The notice dated November 15, 2019 was to be treated as a month's notice for termination of service. The petitioner has admitted before the Court that he received all his remuneration till January 1, 2020.

Being aggrieved by the order of termination the petitioner approached this Court by filing a writ petition which stood disposed of on February 4, 2021. The Court was of the opinion that the petitioner be permitted to submit a representation before the bank and the bank was directed to consider such representation and to pass a final order. The Court was further of the opinion that it will be open for the petitioner to place his claim for remuneration for the period up to which he was actually on duty.

Presently, the petitioner has filed the instant writ application challenging the final order passed by the bank upon consideration of his representation.

The order clearly mentions that the decision to discontinue the service of the petitioner was adopted not by a single individual but by a committee and there was complete openness of deliberation. There was no suddenness of decision or arbitrariness in reaching the decision.

The initial performance of the petitioner was to be reviewed after six months and records show that the bank gave the petitioner enough time for improving his performance.

The impugned order mentions that during the tenure of the petitioner as ATM Facilitator, ATM visit declined from 97.08% in January 2019 to 87.05% in September 2019 and the ATM availability declined from 91.62% in January 2019 to 88.00% in September 2019. The two parameters of his performance showed continuous deterioration.

It appears from the order impugned that the petitioner was paid a sum of Rs. 1,27,200/- only since his date of joining as ATM Facilitator on contractual basis.

Admittedly, the service of the petitioner was contractual and the service was renewable subject to satisfactory performance of the petitioner. The Review Committee of the Bank was of the opinion that the petitioner's service was not satisfactory and the bank thought it fit not to renew his service. Detailed reasons have been mentioned in the order impugned for not renewing the service of the petitioner. It does not appear that there is any apparent error in the impugned order requiring interference by the Court under Article 226 of the Constitution of India.

Being a contractual employee, the petitioner does not have any right to the post in question. The petitioner was afforded a reasonable opportunity to improve his service. He was given training and was provided all data and reports for effective monitoring.

The petitioner accepted his service with full knowledge that the same was contractual and be terminated at any point of time. The petitioner cannot enjoy the protection as available to a regular employee. The Court does not find that there is any error or illegality in the decision making process to terminate the petitioner from service.

In view of the above, the Court does not think it fit to exercise discretion in the instant writ application.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

Sh

(Amrita Sinha, J.)