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ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/316/2019

MOFIZUL MALLICK
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date :27thSeptember, 2022.

Appearance:
Mr. Anjan Bhattacharya, Adv.
For the petitioner.

The Court:- The petitioner claims to be a contractual daily rated Group-C employee under the Bhalugram Gram Panchayat since 2010. It is stated that the petitioner was appointed pursuant to a recruitment process. The recruitment process was advertised on November 19, 2009. It is specifically averred that since the date of joining, till the date of filing of the writ petition, the petitioner continued to discharge his duties as a daily rated/causal, Group-C staff. Submission is made, that he is still continuing to discharge his duties.

The grievance of the petitioner is that the benefit of the Govt. Memorandum dated September 16, 2011 and similar benefits which were extended by subsequent memoranda have not been granted to the petitioner, although recommendation was made by the Block

Development Officer, Mongalkote Development Block. The recommendation was allegedly forwarded to the Assistant Secretary, Department of Panchayat.

Thereafter, as the Department did not take any steps, a writ petition was filed, being WP No. 19058 (W) of 2015.

The writ petition was disposed of by this Court, with a direction upon the Block Development Officer, Mangolkote to consider and take a decision in accordance with law on the basis of the petitioner's representation.

The representation of the petitioner was considered. It was decided that the petitioner was appointed without any approval from the District Level Selection Committee. The Block Development Officer and the Executive Officer of the Panchayat Samiti, did not have any authority to appoint anyone against any sanctioned post of the Gram Panchayat as per the recruitment policy. The claim for regularization was turned down, by an order dated April 4, 2017.

The said order has been challenged in this writ petition. The petitioner does not have any right to be regularized. However, whether the memorandum dated September 16, 2011 as also the memorandum dated February 25, 2016 and the subsequent memoranda issued allowing certain benefits to temporary, casual, daily rated workers who continued to be engaged in Government establishments, would be applicable in case of the petitioner or not, had not been decided by the authority.

Under such circumstances, the writ petition is disposed of with a direction upon the Special Secretary to the Government of West Bengal, Department of Panchayat & Rural Development to treat the writ petition as a representation of the petitioner and dispose of the same, in accordance with law, upon hearing the petitioner and any other interested party including the representative of the Gram Panchayat under which the petitioner is allegedly been working.

This Court has not expressed any opinion on the eligibility of the petitioner to be awarded of the benefits as per the memoranda. A reasoned order shall be passed and communicated to the petitioner.

The order shall specifically indicate whether the petitioner was working as a casual staff under the gram panchayat and also whether having worked in the said capacity over a period of time, the petitioner would be entitled to the benefits of the memoranda dated September 16, 2011 and February 25, 2016, and any other subsequent memorandum issued on similar lines, by the government.

It is made clear, that this Court has not gone into the merits of the claim of the petitioner.

The entire exercise should be completed within a period of three months from the date of communication of this order.

WPO No. 316 of 2019 is disposed of.

All parties are to act on the basis of the server copy of this order.

(SHAMPA SARKAR, J)