

11.
10.01.2023
S.D.

W.P.A. 82 of 2023

Birendra Nath Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Debopriya Gupta
Ms. Debashree Das

... For the Petitioner

Affidavit of service filed in Court be retained with the records.

Despite service, no one appears on behalf of the respondent authorities.

The petitioner is a contractual employee who was appointed as a Darwan cum Nightguard at Pakuahat Central Hospital on April 16, 2001. The petitioner was a Group-‘D’ employee. By an office memorandum dated September 16, 2011, several benefits regarding emoluments, security of tenure and terminal benefits were given by the Finance Department, Government of West Bengal to the Casual/Daily rated/Contractual workers. The said benefits were given by several office memorandum dated February 25, 2016, February 8, 2019 from time to time.

Mr. Gupta, learned counsel appearing on behalf of the petitioner submits that the petitioner was not given the

benefits of the office memorandum dated October 25, 2016 and February 8, 2019 issued by the Finance (Audit Department), Government of West Bengal.

Under the O.M. dated February 8, 2019, the petitioner who was working in Group-‘D’ post, had the qualification of Madhyamik Pass and had been in engagement continuously for a period of more than three years should have been given the benefits of engagement as a contractual/casual/daily rated Group-‘C’ workers. The availability of the vacancies in Group-‘C’ category would appear from the subsequent office orders issued by the Backward Classes Welfare and Tribal Directorate, Government of West Bengal. By an office order dated August 2, 2019 issued by the Additional Director, BCW&TD, the petitioner’s name was recommended for receiving subsequent benefits and emoluments under the O.M. dated February 25, 2016 and February 8, 2019. Furthermore, by an office order dated March 30, 2021, the Project cum District Welfare Officer, BCW&TD, Malda sent proposals for sanction of benefits in terms of the Finance Department, O.M. dated February 8, 2019. The list of the suitable candidates contained the name of the petitioner.

Despite the said recommendations and the availability of vacancies, the petitioner did not get the benefits of the

aforesaid office memorandum. The petitioner made several representations including the ones on March 26, 2021, July 16, 2021, July 28, 2021, November 2, 2021 and January 14, 2022.

Despite the aforesaid representations, no response has been made by the respondent no. 5/the Project Officer.

Mr. Gupta prays for consideration of the said representations on behalf of the petitioner.

Having considered the submissions made on behalf of the petitioner and the materials placed on record, this Court directs the respondent no. 4/the Commissioner, BCW&TD to consider the representations of the petitioner stated hereinabove within a period of six weeks from date upon giving an opportunity of personal hearing to the petitioner. While passing the reasoned order, the respondent no. 4 shall take into consideration the office memorandum dated February 8, 2019 and the recommendation dated August 2, 2019 and subsequent proposal dated March 30, 2021.

The reasoned order shall be communicated to the petitioner within two weeks of passing thereof.

With the directions aforesaid, **W.P.A. 82 of 2023** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)