

25.07.2023
Court No.13
Item No.9
AP

MAT 12 of 2021

**Prabir Bhowmik and Ors.
Vs.
The State of West Bengal and Ors.**

Mr. Atarup Banerjee
Mr. Mrityunjoy Chatterjee
Mr. Rajdeep Pramanik
Ms. Sanwyabi Nandi

...For the Appellants.

Mr. Bhaskar Prosad Vaisya
Mr. Sagnik Chatterjee

... For the State.

1. The appeal is directed against a judgement and/or order dated 17th December, 2020 passed by the learned Single Judge of this Court in WPA 13499 of 2014 and heard along with WPA 14516 of 2014.

2. By the impugned judgement, the two writ petitions were dismissed.

3. The case of the appellant/writ petitioners is that they were engaged as teaching staff or instructors at the Barnan High School (HS), District Purba Medinipur for imparting vocational training courses.

4. The said courses were meant to be part of an employment generation exercise in the State based on a Central Government scheme. The school offering such vocational training and the running thereof was funded by the Central Government through the State Government.

5. The teachers and instructors in the vocational training centers were to be engaged in terms of GO

No.179-TET(Poly)/14D-21/2005(Pt dated 22nd February, 2006 and GO No.17-TET/(Poly)/5C-18/2006 dated 10th January, 2007.

6. The petitioners in the two writ petitions claim to have been recruited as teachers and/or instructors in the schools. They claim to have received remuneration up to the year 2010.

7. The Government, however, relying upon a circular dated 28th April, 2010 issued by the President of West Bengal Council of Vocational Education & Training, found irregularities in the appointment of the petitioners and terminated their engagement.

8. The petitioners challenged the same in WP 1094 (W) of 2013 under Article 226 of the Constitution. By an order dated 18th January, 2013 passed by a Single Bench of this Court the Director of Vocational Education and Training of the State was directed to consider the representation of the writ petitioners after giving them an opportunity of hearing.

9. The Director heard the petitioners and rejected their case, inter alia, on the ground that the petitioners were appointed without following the rules and Government Orders meant for recruitment of instructors and teachers on Vocational Training Centers in the State.

10. The writ petitioners approached the Single Bench under Article 226 for the second time, challenging the

order of the Director. The writ petition was disposed of by an order dated 11th September, 2013 directing the Secretary of the Government of West Bengal, Department of Technical Education to re-hear the writ petitioners and pass a reasoned order.

11. By an order dated 3rd April, 2014 the earlier order passed by the Director of Vocational Education and Training, Government of West Bengal dated 26th March, 2013 was affirmed by the Secretary. The writ petitions have been filed by the Single Bench challenging the order dated 3rd April, 2014.

12. After hearing the parties at length, the learned Single Bench found no infirmity in the order dated 3rd April, 2014. It was also found that there was no violation of principles of natural justice and the writ court cannot enter into the disputed questions of fact.

13. This Court in complete agreement, with the findings and the decision rendered by the Single Judge.

(a) It appears from the orders impugned in the writ petition that the engagement of the petitioners was in flagrant violation of Government Orders dated 22nd February, 2006, 10th June, 2009 and 10th January, 2007.

(b) The required qualifications mentioned in the advertisements for recruitment of teachers to the Barnan High School (HS) did not meet the

qualification requirements of the Government Order dated 22nd February, 2006.

(c) The advertisement published in a local news paper for recruitment was dated 19th August, 2008 for holding an interview on 24th August, 2008 i.e. within four days thereof.

(d) There were temporary recruitment made in the school contrary to any rule of the State.

(e) The qualification certificate produced by some of the petitioners was of a University that was declared fake by the University Grant Commission.

(f) The advertisement was also made for the post of Lab Assistant, which is outside the scope of the GOs in question.

(g) External experts were invited by the school in the process of recruitment as per its whim and fancies and not subject wise.

14. In the backdrop of the above, the Single Judge has rightly dismissed the writ petition.

15. Indeed it is true that a writ court does not enter into the disputed questions of fact. The order impugned in the writ petition was not perverse and was based on materials on record. There was no violation of principles of natural justice.

16. In the aforesaid circumstances, MAT 12 of 2021 fails and is hereby dismissed.

17. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)