

Item No.3
28.02.2023
Court. No. 19
GB

WPA 991 of 2023

Prosenjit Mallick & Ors.
Vs
The State of West Bengal & Ors.

Mr. Ashis Kumar Chowdhury,
Mr. Rajib Ghosh

...for the Petitioners.

Mr. Lalit Mohan Mahatat,
Mr. Prasanta Behari Mahata

...for the State.

The petitioners are aggrieved by the order of the District Magistrate, Malda dated November 23, 2023. The said order was passed pursuant to a direction of a coordinate Bench of this Court dated September 15, 2022 passed in WPA No.16770 of 2021. The District Magistrate came to the conclusion that the appointment of 'Data Entry Operators' of different 'Banglar Sahayata Kendra' had been done directly from the State Headquarters at Nabanna and the District Administration was not responsible for the recruitment. The District Magistrate further came to the conclusion that the petitioners were temporarily deployed as 'Civil Defense Volunteers' and they were paid their remuneration by Civil Defense Department as per the approved rate.

As the petitioners were temporarily deployed at the different BSKs and their deployment was subsequently withdrawn, they could not take the position of the Data Entry Operators who had been selected through a proper selection process, according to the District Magistrate.

The petitioners claim benefits of the Circular No.192-IT/06/2020/P&AR-e-Gov dated October 16, 2020. Such benefits are as follows:-

“2. Benefits to be extended—

2.1 Security of tenure—These contractually engaged IT personnel shall be given security of engagement upto the age of 60 years. They shall not be terminated except on the grounds as prescribed in NO.9008-F(P) dated 16-09-2011.

2.2 Leave:-

- a) 30 days leave in a calendar year,
- b) 10 days leave on medical ground,
- c) Maternity leave (in case of female employee) 180 days and 42 days in case of abortion/miscarriage.

2.3 Terminal benefit on attaining the age of 60 years – Rs.3.00 Lakhs.

2.4 Medical benefit – They will come under Swasthya Sathi Scheme if he/she is not covered under WBHS being a spouse of an employee of State Government.”

The order of the District Magistrate suffers from only one infirmity, that is, the authority did not point out the reason as to why the benefits of the Circular No.192 dated October 16, 2020 would not be applicable to the petitioners. The circular itself indicates that the Department of Personnel and Administrative Reforms is the Nodal Department in respect of such IT personnel.

Under such circumstances, the petitioners are granted liberty to approach the Secretary, Government of West Bengal, Department of Personnel and Administrative Reforms (e-Government Cell) for a fresh decision in the matter. If such approach is made, the same shall be disposed of in accordance with law upon granting an opportunity of hearing to a representative of the petitioners as also other interested parties and the officials under whom the petitioners had discharged their duties as IT personnel. A

reasoned order shall be passed and communicated to all concerned. The issue to be decided would be whether the petitioners were selected in terms of the Circular No.192-IT/06/2020/P&AR-e-Gov dated October 16, 2020 and whether the benefits of the said circular should be extended to the petitioners. The order of the District Magistrate shall not influence the decision.

This Court has not gone into the merits of the claims of the petitioners.

The entire exercise shall be completed within a period of four months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)