

Item-
ML-19. 06-07-2023

MAT 92 of 2019
CAN 1 of 2020 (old CAN 2959 of 2020)
CAN 3 of 2023

sg Ct. 8

Md. Hakimuddin
Versus
State of West Bengal & Ors.

Mr. Shuvro P. Lahiri, Adv.
Md. Habibur Rahaman, Adv.
Mr. Rajesh Naskar, Adv.

...for the appellant

Mr. Santanu Kumar Mitra, Adv.
Mr. Amartya Pal, Adv.

...for the State

The appeal is arising out of a judgement and order dated 25th October, 2017 passed by the learned Single Judge in connection with a writ petition in which the writ petitioner has claimed continuity in service with service benefits in terms of the Circular dated 16th November, 2010.

The learned Single Judge dismissed the writ petition after taking into consideration Clause 15 of the Appointment Letter which clearly states that the engagement of education volunteer is on contractual basis and will not be entitled to file any court case regarding salary and regularization other than the terms provided in the agreement and the education volunteer will not be eligible for regularization and will be guided by the relevant laws of contract. The learned Single Judge has also taken into consideration the fact that the engagement of such education volunteer would be for a period of three months, extendable upto a maximum period of two years from the date of joining. The said maximum period has also expired prior to preferring the present writ petition.

The learned Counsel for the appellant submits that the service condition of the appellant is required to be guided by the circular of the Education Department dated 16th November, 2010 in which Para Teachers, VRP and Siksha Bandus can be engaged directly by the District Project Officer and the Para Teacher, VRP and Siksha Bandhus now working on contractual basis under the PBSSM will be engaged by the Government through the District Project Officer, Sarba Siksha Mission as per procedure laid down at para 2 in the said circular and will continue to remain engaged under contractual basis till attaining the age of 60 years.

In the instant case, as on date of notification, the writ petitioner was not working as Para Teacher, VRP and Siksha Bandhu. PBSSM admitted that he was engaged as Shiksha Mitras on 3rd August, 2005 for a period of six month i.e. from August 2005 to January 2006. There is no averment in the petition that the service of the petitioner as on the date of the said circular was utilised by the District Project Officer.

The learned Counsel for the appellant has relied upon a decision of the learned Single Judge in “Krishnendu Biswas vs. The State of West Bengal & Ors.” dated 26th April, 2023 in order to emphasize that Shiksha Mitras were treated at par with the Teachers, Para Teachers and Educator Volunteer in terms of the Notification dated 16th November, 2010.

We are unable to accept the said submission – firstly, by reason of the fact that the service of the petitioner in the said writ petitioner continued for 19 years and on the date of the issuance of the said circular, he was performing his duty diligently and

nothing adverse was reported against him. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.

The appeal and the connected application stand dismissed. However, there shall be no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)