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13.09.2023
KAUSHIK

WP.ST 27 of 2015
CAN 2 of 2023

Sri Kartick Prasad Pramanick
Vs.
The State of West Bengal & Ors.

Mr. Amal Kumar Mukhopadhyay
Ms. Tithi Majumder
... for the petitioner

Mr. Tapan Kumar Mukherjee, learned AGP
Mr. Pinaki Dhole
Mr. Somnath Naskar
... for the State

CAN 2 of 2023

This is an application for restoration.

For the ends of justice and taking into consideration the statements made in the application for restoration, we recall the order of dismissal dated July 14, 2023.

CAN 2 of 2023 is allowed.

CAN 1 of 2022 is restored to its original file and number.

CAN 1 of 2022 is treated as on the day's list.

It is an application for restoration of the writ petition.

Taking into consideration the pleading in the application for restoration and for the ends of justice, we recall the order of dismissal dated December 9, 2015 and restored the writ petition to its original file and number.

CAN 1 of 2022 is disposed of.

The writ petition is directed against an order dated September 3, 2014 passed in O.A. 273 of 2014 by the West Bengal Administrative Tribunal.

By the impugned order, the claim for regularisation of the writ petitioner was negated.

The writ petitioner approached the learned Tribunal several times for regularisation. It would be appropriate to refer to the last order of the High Court and the facts emanating subsequent thereto.

By an order dated April 12, 2013 passed in WP.ST 110 of 2013, the High Court, directed the Director of Health Services to consider the claim of the writ petitioner as to his entitlement to the benefits of the circular dated April 23, 2010 issued by the Finance Department being no. 2966-F (P).

The authorities undertook the exercise as directed by the High Court and passed a reasoned order dated January 8, 2018 negating the claim of the writ petitioner.

Being aggrieved, the writ petitioner approached the learned Tribunal by way of O.A. 273 of 2014, which resulted in the impugned order.

The claim of the writ petitioner revolves around the circular dated April 23, 2010 issued by the Finance Department. Relevant portion of the memorandum is as follows:

> "After careful consideration of the matter the Governor has now been pleased to order that these casual/daily rated workers who are remaining attached to various establishments of the Government Departments/Directorates/Regional Offices for not less than 10 years as on 01.04.2010 and have rendered service for at least 240 days each year will be allowed the following benefits-"

Two essential criteria are required to be fulfilled to come within the ambit of the memorandum dated April 23, 2010. The first, according to us is that, the incumbent must put in service in excess of ten years as on April 1, 2010. Secondly, the incumbent is required to render service for at least 240 days each year of such period.

We called upon the learned advocate for the writ petitioner to establish that the writ petitioner comes within the purview of the memorandum dated April 23, 2010 that is to say that the twin criteria we noted above were satisfied by the writ petitioners.

Learned advocate appearing for the writ petitioner refers to the order dated April 12, 2013 of the High Court passed in WP.ST 110 of 2013 in support of his contention that the writ petitioner qualifies to be considered in terms of the memorandum.

The relevant portion of the order dated April 12, 2013 passed by the High Court is as follows:

> "The respondent no. 2, who has decided the application, ought to have referred to those records rather than calling upon the petitioner to produce any document indicating that he had worked more than 240 days in a year from the period from 1991 to 1999."

The High Court never returned a finding that the writ petitioner worked in excess of ten years as on April 1, 2010 or 240 days for each year of such period.

No material is placed before us to suggest let alone establish that the writ petitioner worked for ten years and for 240 days of every year as on April 1, 2010.

In such circumstances, we find no reason to interfere with the impugned order dated September 3, 2014 passed by the learned Tribunal.

WP.ST 27 of 2015 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)