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20.09.2023
Ct. No. 15
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W.P.A. 2313 of 2016

Dipen Roy
Vs.
The State of West Bengal & Ors.

Mr. Syed Mansur Ali
...for the petitioner

Mr. Arjun Roy
Mr. Subhendu Sengupta
...for the State

Affidavit-of-service filed on behalf of the petitioner is taken on record.

Writ petition has been instituted, *inter alia*, praying for engagement of the petitioner as Tax Collector of Indong Matiali Gram Panchayat, District-Jalpaiguri based on appointment letter dated 8th October, 2009 issued by the Pradhan of the aforesaid gram panchayat. Prayer (a) of the writ petition is quoted below:-

> *a) A writ of or in the nature of mandamus commanding the respondents, their agents, servants, subordinates, employees particularly the Pradhan of Indong Matiali Gram Panchayat, being respondent no. 7 to allow the petitioner to join his duty as panchayat tax collector in terms of the appointment letter forthwith and release all arrear salaries from the date of issuance of appointment letter being Annexure "P/2"to this petition.*

On perusal of the said prayer (a) it appears that petitioner prayed for engagement as tax collector in the aforesaid gram panchayat based on appointment letter dated 8th October, 2009. It has also been submitted on behalf of the petitioner that another appointment letter was issued in his favour dated 29th April, 2013 by the Pradhan of aforesaid gram panchayat in consideration of his participation in the selection process held in the year 2011. It has been submitted that though there is no specific prayer made in this writ petition for appointment of the petitioner based on second appointment letter dated 29th April, 2013 necessary direction needs to be issued for petitioner's engagement as tax collector on the basis of the appointment letter dated 29th April, 2013.

The learned advocate representing the State-respondents including Block Development Officer, Matiali Development Block, being respondent no. 6 has opposed the writ petition based on a letter dated 4th February, 2016 issued by the said Block Development Officer to the District Magistrate, Jalpaiguri. Copy of the said letter dated 4th February, 2016 is placed before this Court and the same is taken on record.

From the said letter dated 4th February, 2016 it appears that in spite of issuance of appointment letter in connection with the selection process of 2009 the petitioner did not join the post of tax collector. It has further been stated in the said letter of the concerned Block Development Officer that in 2011 selection process which was conducted by the concerned respondent authority for appointment of tax collector in the aforesaid gram panchayat petitioner could not qualify.

Therefore, according to the State-respondents the relief prayed for in this writ petition may not be accepted.

Having considered the submissions made on behalf of the parties and in consideration of the materials available on record it appears that in spite of being selected for being engaged as tax collector in the aforesaid gram panchayat and issuance of appointment letter dated 8th October, 2009 petitioner did not join the post. However, relating to the selection of the petitioner in 2011 selection process though appointment letter dated 29th April, 2013 is annexed to this writ petition at page 24, but it appears from the letter dated 4th February, 2016 issued by the Block Development Officer that petitioner could not qualify the selection process conducted in 2011. Therefore, it transpires that selection of the petitioner as tax collector in 2011 is a disputed issue. If this Court proceeds on the premise that the petitioner was selected in 2011 selection process then question comes up why he did not join the post based on the appointment letter dated 29th April, 2013 though argument has been made on behalf of the petitioner that he was not allowed to join. Then the petitioner was required to approach this Court with the writ petition within the reasonable time after being refused to join the post of tax collector in 2013, but the present writ petition has been instituted on 9th February, 2016, approximately three years after issuance of appointment letter in favour of the petitioner which is dated 29th April, 2013.

Such delay in approaching the Court is found to be fatal in view of the norms relating to engagement as tax collector since such engagement is on contractual basis for a period of 2 years with a mandatory provision for renewal of such contract after expiry of 2 years.

In the present case petitioner pursuant to the first appointment letter dated 8th October, 2009 did not join the post and subsequently on issuance of second appointment letter dated 29th April, 2013 waited till 9th February, 2016 and then filed the present writ petition, by that time contractual service period of 2 years was over, if the same is counted from the month of May, 2013 in consideration of the date of appointment letter dated 29th April, 2013.

It is true that there is no statutory provision of limitation for filing the writ petition from the date of cause of action but the same as needs to be filed within the reasonable time and the Supreme Court in the judgment of **Shiv Dass Vs. Union of India & Ors.** reported in **(2007) 9 SCC 274** has held that period of three years should be treated as reasonable period.

In view of above conspectus this Court is not inclined to interfere with the writ petition and accordingly the same is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)