

08.05.2023
(I.No.1)
Ct.-18
(P.Jana)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 6852 of 2021

Ashis Kumar Das

-Vs-

The State of West Bengal & ors.

Mr. Asim Hati,
Ms. Nandini Sharma,
Ms. Sreetama Neogi,

.... For the Petitioner.

Mr. Pinaki Dhole,
Mr. Sayam Ganguly,

... For the State.

In the year 2000, the West Bengal Board of Secondary Education had recognized the Jamtoria High Shool, Jamtoria, Purulia, West Bengal and much prior thereto, the petitioner was appointed as a Group 'D' staff of the said School.

The petitioner praying regularization of his said appointment filed a writ petition being WP 13523 (W) of 2003.

The learned Single Judge by the order dated March 13, 2009 allowed the said prayer of the petitioner but in an appeal by the State being F.M.A. 992 of 2010, the said order was set aside on December 14, 2010 by the Hon'ble Division Bench, presided over by his Lordship, the Hon'ble Justice Amit Talukdar.

The Hon'ble Division Bench, however in the said order, observed that the School authority shall report the vacancy in the post of Group 'D' staff of the school to the West Bengal School Service Commission to start the selection process for filling up the said post.

The petitioner, praying similar relief again filed another writ petition being W.P. 1415(W) of 2012. The learned Single Judge disposed of the writ petition vide judgment and order dated September 19, 2016 by directing the District Inspector of Schools (S.E.) Purulia, the respondent no. 3 herein to consider the case of the petitioner for regularization of his service in accordance with law.

Pursuant to the aforesaid direction, the respondent no. 3 by the impugned order dated December 08, 2016 has rejected the said prayer of the petitioner.

Mr. Hati, learned advocate for the petitioner submits that though the School authority has reported the said vacancy to the respondent no. 3, but the authorities, till date, have not taken any steps to fill up the said post by regular appointment, as a result, in spite of some relaxation being given to the petitioner by the Hon'ble Division Bench in the said appeal, the petitioner is not getting the opportunity to have his said service regularized.

Mr. Dhole, learned advocate for the State respondents submits that it appears from the order impugned that the Managing Committee of the School did not follow the prescribed procedure to appoint the petitioner in the post, as such, he is not entitled to the regularization of his such appointment.

Heard learned counsel for the parties, perused the materials-on-record.

The order impugned was passed on December 08, 2016, delay in challenging the said order has not

been explained, as such, the writ petition is liable to be dismissed on the said ground alone.

That apart, the respondent no. 3 in the order impugned has observed that the Managing Committee of the school did not accord prior permission of the concerned authority before appointing the petitioner, which was the requirement prior to promulgation of the West Bengal School Service Commission Act, 1997 and the West Bengal School Service Commission (Selection of Persons for Appointment to the Post of Non-Teaching Staff) Rules, 2009.

There is no materials-on-record to impeach the said finding in the order impugned.

Therefore, summing up the discussion made above, I hold that the petitioner is not entitled to the relief as prayed for; accordingly, WPA 6852 of 2021 is dismissed without any order as to costs.

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

(Biswajit Basu, J.)