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11.1.2023
S.D.

W.P.A. 8514 of 2021

**Fulan Das
Vs.
The State of West Bengal & Ors.**

Mr. Apurba Ghosh
...For the petitioner

Mr. Somenath Basu
..For the State

The petitioner has prayed for her engagement as an ASHA (Accredited Social Health Activist) Karmee in Tehatta-II block. The petitioner applied for appointment pursuant to an advertisement dated December 5, 2017. The petitioner filed a previous writ petition being W.P. 23365 (W) of 2019. A Coordinate Bench of this Hon'ble Court directed the representation of the petitioner to be considered. The petitioner challenged in the previous writ petition an appointment that was wrongly given in favour of the private respondent no. 9, when the petitioner was entitled to the same.

Pursuant to the directions given by the Coordinate Bench, a reasoned order was passed by the Chief Medical Officer of Health on March 2, 2020. By the order dated March 2, 2020, the appointment of the private respondent no. 9 was set aside and the petitioner's name was recommended for appointment to the said post of ASHA without any delay.

Despite the order dated March 2, 2020, the petitioner was not given the appointment. Therefore, the petitioner was constrained to file the present writ petition. During the pendency of the present writ petition, the petitioner was given appointment on or about December 16, 2022.

Mr. Ghosh, learned counsel appearing on behalf of the petitioner submits that the attitude of the State respondents is harassing. The delay on the part of the State respondents to give appointment is without any legitimate reason.

Mr. Basu, learned counsel appearing on behalf of the State respondents submits that an appointment letter has been given in favour of the petitioner. The private respondent's engagement has been terminated by the aforesaid order dated March 2, 2020 passed by the CMOH.

Despite being enquired by the Court, the learned counsel appearing on behalf of the State could not satisfy the Court why there was an unreasonable delay in the

appointment of the petitioner as ASHA Karmee. The order of the CMOH was passed on March 2, 2020, whereas the appointment was given only on or about December 16, 2022 and that too upon filing the present writ petition being W.P.A. 8514 of 2021.

After considering the submissions of the parties and the materials placed on record, this Court is of the view that in the interest of justice and the harassment caused, the petitioner should be paid a sum of Rs.25,000/- as a one time payment on the peculiar facts and circumstances of the case. The said payment should be made within three months from the date by the authority entitled to disburse the salary of the petitioner month to month from December 2022.

The written instruction handed over in Court today on behalf of the State is retained with the records.

Since no affidavits have been directed to be exchanged in the present writ petition, the allegations contained in the writ petition are deemed not to have been admitted by the parties.

With the directions aforesaid, **W.P.A. 8514 of 2021** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

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

(Lapita Banerji, J.)