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22-06-2023
debajyoti
(Ct. no.06)

MAT 831 of 2023
+
IA NO:CAN/1/2023

Sahabuddin Sk.
Vs.
The State of West Bengal & Ors.

Mr. Lal Ratan Mondal,
Ms. Sk. Kiran

... For the Appellant.

Mr. Shibasis Chatterjee

... For Respondent No.6.

By consent of the parties, the appeal and the application are taken up together for hearing.

A judgment and order dated April 21, 2023 whereby the appellant's writ petition being WPA 5062 of 2023 was dismissed by a learned Single Judge, is under challenge in this appeal at the instance of the writ petitioner.

The grievance of the appellant before the learned Single Judge was that he had served as a driver in Murshidabad Municipality since the year 2000. But suddenly after May, 2022, he was not permitted to join his duty. In fact, his service was abruptly terminated without any prior notice or without assigning any reason. He also submitted that four other persons, similarly placed, were allowed to continue in service. He submitted that he has filed a representation dated January 18, 2023, which the Municipality has not considered. His prayer was for a direction on the Municipality to consider his representation.

The learned Judge observed that the petitioner was a casual worker. He had no right in law to continue in service. If the Municipality did not require his services any more, the Municipality would be within its right to discontinue with his service. The learned Judge concluded that no legal or fundamental right of the writ petitioner has been infringed by the Municipality. Accordingly, the learned Judge dismissed the writ petition. Hence this appeal.

We have heard learned counsel for the parties. There is no apparent infirmity in the order under appeal. Indeed, a person in the position of the appellant does not have any legal right to continue in service.

However, learned advocate for the appellant has candidly submitted that this is a mercy petition. The appellant only requests the Municipality to consider his representation.

On humanitarian grounds and without creating any precedent, we direct the Municipality to consider the appellant's representation dated January 18, 2023 and take a reasoned decision thereon in accordance with law. An opportunity of hearing should also be given to the appellant or his authorized representative prior to any decision being taken. Such an order will not prejudice the Municipality in any manner since we are not binding the hands of the Municipality to decide the representation in any particular manner. We are passing this order considering the fact that the appellant had served the Municipality for about 22 years and he is about 63 years of age presently. We are sure that if the Municipality requires his service, appropriate orders will be passed by the Municipality.

Let the exercise be completed within eight weeks from the date of communication of a copy of this order to the appropriate officer in the Municipality.

The appeal and the application are, accordingly, disposed of.

Affidavits not having been called for, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)