

03. 03.04.2023
bd. Ct.15

W.P.A. 14110 of 2017

Rupchand Nayak

-vs-

The State of West Bengal & Ors.

Mr. Sudip Ghosh

... for the petitioner

Mr. Supriyo Chattopadhyay

Ms. Tapati Samanta

... for the State.

The writ petition is presented, inter alia, claiming approval of service as Group-D staff of Jagannathpore Badichak Pasupati Vidyamandir, District-Paschim Medinipur (hereinafter referred to as "said school"). In support of the contention petitioner has drawn attention of this Court to the appointment letter dated 2nd December, 1999 at page 16 of the writ petition wherefrom it appears that the petitioner was appointed as Group-D staff of the said school on monthly salary subject to approval of the District Inspector of Schools (SE), Midnapur.

On behalf of petitioner reliance has been placed on an order dated 3rd April, 2017 passed by a coordinate Bench on a writ petition being WPA 9781 of 2016 (Amit Kumar Bhagat & Ors. -vs- State of West Bengal & Ors.). Therefore petitioner prays for grant of approval of appointment in his favour.

Such prayer of the petitioner has been opposed by Mr. Chattopadhyay senior Government advocate on the score that petitioner was appointed de-hors the recruitment rules prevalent at the

material point of time. No prior permission was accorded by the concerned District Inspector of Schools permitting the said school authority to fill up the post of Group-D. In addition thereto it is submitted that petitioner's appointment was not against the sanctioned vacancy.

Considering the submissions made on behalf of the respective parties it appears that petitioner was appointed without following the recruitment rules prevalent at the material point of time. Petitioner's appointment was neither in terms of the prior permission which was required to be accorded by the concerned District Inspector of Schools nor against the sanctioned vacancy. An order of the co-ordinate Bench dated 3rd April, 2017 in Amit Kumar Bhagat (supra) is not applicable in the present case, since in consideration of availability of vacancy in the school in question relief was granted to the petitioner. It is well settled principle that judgment/order is an authority on what Court decides and not what can be deduced therefrom.

In the present case placing reliance on the judgement of the Apex Court reported in **(2006) 4 SCC, 1 (Secretary, State of Karnataka & Ors. -vs- Uma Devi & Ors.)** this Court finds that no enforceable right is accrued in favour of the petitioner requiring issuance of mandamus in order to protect the same.

Accordingly, this Court does not find any merit in the writ petition and the same stands dismissed. Interim order if any, stands vacated.

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.)