

S/L 54
28.07.2023
Court. No. 29
Suvayan

WPA 12079 of 2019

Jayanta Pathak
Vs.
State of West Bengal & Ors.

Mr. Dibashis Basu
Mr. Sourav Sen
Mr. Arun Bandyopadhyay

...for the petitioner.

Mr. Arjun Ray Mukherjee
Mr. Joyjeev Medhi

...for the State.

Mr. Sudipto Panda
Ms. Oindrila Ghosal

...for the respondent No. 6.

1. Learned Advocate for the writ petitioner, learned Advocate for the State/respondent Nos. 1, 2 and 4 and learned Advocate for the respondent No. 6 are present.
2. The present writ petitioner is not taken up for hearing.
3. The report in the form of affidavit filed by the respondent Nos. 1, 2 and 4 be taken on record.
4. In this writ petition, the writ petitioner has impugned the Memo No. Dy. CMOH-II/15 dated 04.04.2018 as written by CMOH, Purba Burdhaman whereby and whereunder the candidature of the present writ petitioner in the contractual post of laboratory technician has been cancelled and, thus, the employment of the present writ petitioner was terminated with effect from April 5, 2018.
5. In support of his contention Mr. Sen, learned Advocate for the writ petitioner at the very outset draws

attention of this Court to Page 23, that is, Annexure P-2 of the instant writ petition which is the relevant recruitment notification by which the present writ petitioner was recruited in the contractual post of laboratory technician in unreserved category. It is contended by Mr. Sen that the present writ petitioner has obtained diploma in laboratory technology course from Indian Medical Association, the private respondent No. 6 herein and after scrutinizing his application admit card was issued to him and after qualifying the requisite examination the present writ petitioner stood first in the panel and, thereafter joining letter was issued to him on 08.01.2018.

6. It is, however, submitted on behalf of the writ petitioner that all on a sudden by issuing the impugned letter dated 04.04.2018 the present writ petitioner was terminated from his employment on the pretext that the writ petitioner's candidature that is the writ petitioner's certificate in DMLT course is not recognized by State medical faculty, State Technical Education Department or any other State or Central Government.

7. It is argued on behalf of the petitioner that from the annexures to the supplementary affidavit it would reveal that Department of Health and Family Welfare, New Delhi has treated all para-medical courses being run by the private respondent No. 6/association as recognised courses and Director of Medical Education and Ex-officio to the Secretary of Government of West Bengal wrote a letter to the Honorary Secretary General, New Delhi clearly indicating the students for diploma in para-

medical courses as have been approved by the Government of West Bengal may avail six months internship training at any medical teaching institution under West Bengal Medical Education Services.

Drawing attention to Annexure P-15 at Page 10 of the supplementary affidavit, Mr. Sen, learned Advocate for the writ petitioner further argued that in the Ministry of Railway, diploma in Medical Laboratory Technology as awarded by the private respondent No. 6/association has been accepted as a valid one. It is, thus, contended that in view of the facts and circumstances as discussed hereinabove there cannot be any justification to hold that the present petitioner's diploma in Medical Laboratory Technology does not fulfil the eligibility criteria as mentioned in the memo dated 13.04.2017 (Annexure P-2 of the writ petition).

8. *Per contra*, learned Advocate for the State draws attention of this Court to the report in the form of affidavit as filed by the respondent Nos. 1, 2 and 4 which has been affirmed by one Dr. Barun Santra and an official of Department of Health and Family Welfare, Swasthya Bhawan, Government of West Bengal. Mr. Medhi, learned Counsel led by Mr. Ray Mukherjee, learned Advocate for the State submits before this Court that from the report as filed on behalf of the State it would reveal that the present writ petitioner has not obtained his diploma in Medical Laboratory Technology from an institution recognised either by the State Government or by the Central Government and, therefore, there cannot

be any justification to interfere with impugned termination letter.

9. Learned Advocate for the private respondent No. 6, however, submits that the diploma as awarded in favour of the present writ petitioner is recognised by the Department of Health and Family Welfare, Government of West Bengal which is evident from Annexure P-1 of the instant writ petition.

10. This Court has heard the learned Advocates for the parties at length. This Court has also perused the entire materials as placed before this Court. Admittedly in the photocopy of the diploma as awarded in favour of the present writ petitioner by the respondent No. 6/association it has been written that such diploma has been recognised by the Government of West Bengal, Department of Health and Family Welfare but the writ petitioner before this Court has miserably failed to produce a single paper to establish that his diploma course is recognised either by the Central Government or any of the State Government of the Country. Admittedly, the diploma in respect of para-medical courses as awarded by the private respondent No. 6/association have been accepted by the different departments of the Union of India but in the recruitment notification dated 13.04.2017 it has been specifically mentioned that one of the eligibility criteria for appointment for the post of laboratory technician is that the candidate must possess the degree or diploma in Medical Laboratory Technology from the University/Institution recognised by the Central

Government or State Government. Since before this Court the writ petitioner has failed to produce any scrap of paper showing that the diploma as awarded to him by the private respondent No. 6 has either been recognized by the Central Government or by the State Government, this Court finds that the respondents/State is perfectly justified in issuing the impugned letter of termination dated 04.04.2018.

11. As a result, the instant writ petition being WPA 12079 of 2019 fails and is hereby dismissed on contest but considering the facts and circumstances of the present case without any order as to costs.

12. Parties to act on the server copies of this order.

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

(Partha Sarathi Sen, J.)