

28.06.2023
DL-20
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 14351 of 2023

Bapan Sutradhar

Vs.

Mackintosh Burn Limited & Ors.

Mr. Jayak Gupta,

Mr. Aniket Mitra

...for the petitioner.

Mr. Arnab Chakraborty,

Ms. Pragya Bhowmick

....for the respondents.

It is submitted on behalf of the respondent/Mackintosh Burn Limited that no writ is maintainable against the said company.

On merits, this Court finds that the petitioner who was appointed on compassionate ground vide letter dated May 26, 2022, joined his services sometime in June 2022. The petitioner's father died-in-harness on March 29, 2020. The petitioner left his duties on June 15, 2022 after working a few days without any intimation to the authorities concerned. Thereafter, there was no communication between the petitioner and the respondent/employer. The petitioner wrote for the first time on December 20, 2022 requesting the General Manager/respondent no.3 to allow him to join his work at Siliguri.

The petitioner's grievance is that despite his representation made on December 20, 2022 and the subsequent representations on February 17, 2023, April 11, 2023, the petitioner was not allowed to join his duty. Thereafter, the petitioner was intimidated by

a letter dated May 4, 2023 issued by the advocate for the respondent authorities that during the period of probation the petitioner left his duties without any intimation whatsoever. The same amounted to abandoning of service. Therefore, the petitioner's prayer for reengagement could not be considered by the authorities.

Considering the submissions of the parties and the materials placed on record, this Court finds that there is no arbitrariness or perversity in the decision making process of the employer. The refusal to let the petitioner join services is not a decision that is made with mala fide intention or ulterior motive or in colourable exercise of power. The same is not vitiated by procedural impropriety.

Therefore, in the light of the discussions above, **WPA 14351 of 2023 is dismissed.**

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

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

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

(Lapita Banerji, J.)