

Court No.
11.8.2023

(Item No. 16)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 15982 of 2017

Md. Amir Hossain

VS

The State of West Bengal & Ors.

Mr. Masud Karim

Mr. T. Roy

Md. Wasim Akram

..... for the petitioner

Mr. Masud Karim, learned advocate appears for the petitioner.

None appeared for the respondents today.

The writ petition is of 2017. Considering the issue involved in this writ petition this Court is of the view that, any further pendency of the writ petition shall not serve any useful purpose and as such the same is taken up for consideration and disposal.

The petitioner claimed to have been working since **September 8, 2007** as a **Night Guard** at one **Talbangru Senior Madrasah (Alim), District – Malda.** The petitioner claimed that, there was a vacancy for the post also since 1999 for a **Night Guard** and the vacancy since 2007 for the post of **Peon.** The petitioner claimed regularization of his service. The petitioner pursued his claim before the respondent No. 3 since about 2014 as would be evident from **Annexure P-11** at **pages 50 & 51** to the writ petition. However, there is no document to show from record that, the representation of the petitioner was

recommended by the relevant Madrasah authority before the respondent No. 3 which is a mandatory requirement of law. In absence of such recommendation from the Madrasah authority the respondent No. 3 cannot act upon on the basis of a representation of the petitioner directly.

Considering the period of service rendered by the petitioner at a meager wage at Rs.350/- per month, just give an opportunity to the petitioner the petitioner will be at liberty to apply before the relevant Madrasah authority renewing his prayer. In the event, such prayer made before the Madrasah authority, such authority shall take the subsequent steps strictly in accordance with law positively within a period of **six weeks** from the date of receipt of such prayer from the petitioner.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in this petition.

It is also made clear that, this order shall not create any equity or right in favour of the petitioner if the petitioner is not eligible to receive his claim strictly in accordance with law and the relevant Madrasah authority shall be free to take its decision in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition being **W.P.A. 15982 of 2017** stands disposed of, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)