

11.12.2023
Court No.13
Item No. 31
pk

WPA 15130 of 2023

**Sk. Kamaluddin @ Hafiz Nooruddin Kamal
Vs.
The State of West Bengal and others**

Mr. Avishek Prasad

... for the petitioner.

Mr. Suman Sengupta,
Mr. Dip Jyoti Chakraborty,

... for the State.

Sk. Md. Galib,
Ms. Tanwishree Mukherjee

... for the Board of Auqaf.

1. The petitioner claims that he was appointed under the Hazrat Data Mehboob Shah Wali (Patharchapuri) Wakf Estate that was under the control and management of the Auqaf Board of West Bengal.

2. The petitioner was initially allowed to work in terms of the Circular on 16th September, 2011 where certain casual employees were allowed to function until the age of 60 years against a fixed pay and sum of Rs.1,00,000/- upon retirement. The said amount was revised from time to time.

3. The petitioner reached the age of 60 years but he was asked to continue to work as casual employee thereafter. The petitioner also claims that he was allowed by the Auqaf Board to work as long as he was physically fit.

4. The petitioner relies upon a decision of the Supreme Court in the case of **All India Imam Organisation and others Vs. Union of India and others** reported in **(1993) 3 SCC 584** where Imams of Auqaf Board were held to have a master servant relationship with Mosque. A scheme was directed to be framed for the engagement and working conditions of the Imams.

5. This Court, however, notices that the petitioner comes under the category of a workman as the nomenclature of his work was that of a Khadem. The petitioner approached Auqaf Tribunal in OA 11 of 2020 which was disposed of by the judgement dated 16th September, 2022 on the ground that there was no provision for engagement of contractual staff by the Board of Auqaf or the Executive Officer of Auqaf Estate.

6. In those circumstances, this Court is of the view that no relief can be granted to the petitioner otherwise.

7. The petitioner is, however, at liberty to approach the concerned Industrial Tribunal on the provisions of the Industrial Disputes Act, 1947 for raising any grievance in accordance with law.

8. The writ petition is disposed of.

9. There will be no order as to costs.

10. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)