

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WP.ST 172 of 2015

Sri Dhiman Mukherjee & anr.

Vs.

Amrit Kumar Manna & ors.

For the State petitioners : Mr. Tapan Kr. Mukherjee,
Sr. Advocate & A.G.P.
Mr. Pinaki Dhole, Advocate,
Mr. Somnath Naskar, Advocate

For the Respondent
Nos.1 to 7 : Ms. Kakali Naskar, Advocate

Hearing on : 29.08.2023

Judgment on : 29.08.2023

DEBANGSU BASAK, J.:-

1. The writ petition is directed against an order dated January 31, 2014 passed by the West Bengal Administrative Tribunal in O.A.957 of 2012.

2. The writ petition is at the behest of the State.

3. Learned Senior Advocate appearing for the State submits that all the respondents were engaged as Work Charged employees. Their appointments were not against any regular sanctioned post. The respondents are not entitled to absorption/regularisation in view of the decision of the Hon'ble Supreme Court reported in **(2006) 4 Supreme Court Cases 1 (Secretary, State of Karnataka and others vs. Umadevi (3) and others)**.

4. Learned Senior Advocate appearing for the State draws the attention of the Court to the impugned order. He submits that, the Tribunal held that the contents of a notification dated July 20, 2011 which stipulated the parameters for absorption/regularisation, were not applicable to the respondents. He submits that, the notification dated July 20, 2011 was issued in the tune of various pronouncement of the Hon'ble Supreme Court including that of **Umadevi (3)**.

5. Learned advocate appearing for the private respondents submits that, none of her clients are interested in contesting the present writ petition.

6. By the impugned order, the Tribunal, directed regularisation of the respondents if they satisfied the parameters of regularisation.

7. Of the seven respondents, six of them superannuated from service on diverse dates and received their superannuation benefits as Work Charged employees. The second respondent apparently is still in service.

As noted above, all the respondents expressed their desire not to contest the present writ petition.

8. **Umadevi (3)** laid down the parameters under which, a request for regularisation can be considered, if at all. State Government, on consideration of various authorities of the Supreme Court including **Umadevi (3)** issued the notification dated July 20, 2011 governing the field of regularisation. Such notification stated that regularisation of Work Charged staff is not possible. The Tribunal, by the impugned order, found that such notification was not applicable to the respondents. The reasons prescribed by the Tribunal in our view is contrary to the observations of **Umadevi (3)**.

9. None of the respondents were appointed to a sanctioned post. None of the respondents were selected for appointment through a selection process.

10. In such circumstances, the impugned order of the Tribunal dated January 31, 2014 is set aside.

11. **WP.ST 172 of 2015** is **allowed** without any order as to costs.

(Debangsu Basak, J.)

12. I agree.

(Md. Shabbar Rashidi, J.)

CHC