

17.01.2023

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WPA 16655 of 2021

Sk. Liakat Ali

Vs.

The State of West Bengal & Ors.

Mr. Shuvro P. Lahiri

Mr. Rajesh Naskar

... For the petitioner.

Mr. Amitava Chaudhuri

Mr. N. Roy

... For the College.

The petitioner is a temporary Group 'D' staff at the laboratory of Hijli College, Paschim Midnapore.

The petitioner has challenged an order dated August 13, 2021, passed by the Director of Public Instruction, West Bengal. By the said order, the Director of Public Instruction declined to grant equal pay for discharging duties similar to those of government employees.

Mr. Lahiri, learned advocate appearing for the petitioner submits that though the petitioner is engaged as a temporary Group 'D' employee, he has been discharging his duties like a regular employee. The College pays a wage of only Rs. 300/- per day to the petitioner. It is difficult for the petitioner to sustain himself and his family members on this wage.

Reliance has been placed by Mr. Lahiri upon the judgment reported at **(2017) 1 SCC 148 (*State of Punjab v. Jagjit Singh*)**. By referring to paragraphs 49.1, 51.1, 51.3, 54.1, 56, 57, 58, 60, and 61 of the said judgment, it has been argued by Mr. Lahiri that the Supreme Court has clearly enunciated that a person discharging similar duties is entitled to similar wages. Mr. Lahiri contends that the petitioner should be given the benefit of the judgment of Jagjit Singh (*supra*) and should be paid the remuneration of a regular government employee, for discharging similar duties.

Mr. Amitava Chaudhuri, learned advocate appearing on behalf of the College submits that order dated August 13, 2021, does not suffer from any illegality. He refers to the affidavit filed on behalf of the College and submits that the petitioner was engaged as a daily rated Group 'D' employee in the laboratory of the College. He was appointed by a resolution of the Governing Body dated August 5, 2008, with a wage of Rs. 100/- purely on a 'no work no pay' basis. The engagement of the petitioner was purely on a temporary basis and not against any sanctioned post. Mr. Chaudhuri further submits that the petitioner does not render equal service in comparison with the daily rated workers under the various establishments of the

government. The petitioner is paid out of the College fund. As such, there is no question of payment of equal pay to the petitioner in comparison to the regular government employees.

The order dated August 13, 2021, impugned in this writ petition does not call for any interference. It is not in dispute that the petitioner was engaged by a resolution of the Governing Body of the College purely on a temporary basis and the State never granted its approval. The petitioner is paid from the College fund only.

The Director of Public Instruction has rightly observed that the orders, as relied upon by the petitioner at the time of hearing before him, clearly indicate that daily rated casual employees referred to in those orders are remunerated by the State directly from its own fund. The petitioner is not paid from the government fund and the State has never disbursed any fund to the college for the petitioner. The liability of remuneration of the petitioner lies with the College. Therefore, the benefits declared by the various circulars as relied upon by the petitioner are not applicable to him.

Even if it is assumed that the appointment of the petitioner is in a sanctioned post, the same does not *ipso facto* entitle him to claim equal pay with the

regular government employees. Since the petitioner was appointed without any approval of the government, the petitioner, in my view, cannot be extended the benefits of the circulars which are applicable to the temporary employees appointed by the government.

For the reasons recorded above, I am not in a position to issue any direction to pay the wages/remuneration to the petitioner at par with the regular government employees discharging similar duties.

In course of submission, it has been submitted by Mr. Chaudhuri that the College has enhanced the daily wages of the petitioner by Rs.25/- per day. If the petitioner is not satisfied with his daily wages, he may approach the appropriate forum for enhancement of his daily wages in accordance with law.

With the aforesaid observations, WPA 16655 of 2021 is dismissed.

There will be no order as to costs.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)