

02 27.7.2023

Ct-08

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FMA 71 of 2022
with
I.A No. CAN 1 of 2021

Tanmaya Mukherjee
Vs.
The State of West Bengal & Ors.

Mr. Sakti Pada Jana
Mr. Subhrajyoti Das
... For the Appellant

Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
... For the State

The report filed in the form of an affidavit by the District Inspector of Schools, Primary Education, Kolkata, is taken on record.

It appears that the school by a communication dated 29.02.2020 forwarded eight (8) names in the panel for approval. Subsequently, on 12th August, 2020 the D.I. was informed that the appellant was appointed as an Assistant Teacher w.e.f 28.09.2005 and she was confirmed w.e.f 1st April, 2008, whereas Smt. Poonam Mehata was appointed as an Assistant Teacher w.e.f 18.6.2007 and she was confirmed from 31st August, 2010.

It was the contention of the school that from the Teacher's Attendance Register, at the relevant point of time, it would appear that the name of the appellant was included in the permanent Attendance Register of the school

w.e.f April 2010. The school admits that the appellant is the senior incumbent to Smt. Poonam Mehata. The school after obtaining prior permission for appointment of 8(eight) teachers sent the panel to the D.I for approval. Subsequently, the D.I accorded approval of appointment against 7(seven) teachers without mentioning in whose place those vacancies would be filled up. The school has reiterated that as per record it is found that Smt. Chanda Sharma, an approved Assistant Teacher of the school, retired on 11th March, 2004. Hence the vacancy of an Assistant Teacher post occurred with effect from 12th March, 2004. The appointment of Smt. Tanmaya Mukherjee was effected from 28.09.2005 in place of Smt. Chanda Sharma, who retired on 11th March, 2004. However, in the communication dated 29.2.2020 the names forwarded for approval, in which the name of the appellant is mentioned, was included against the vacancy occurred due to the retirement of Smt. Sova Arora, being reserved for SC(EC).

In view of the fact that the school authorities could not make the decision clear, the District Inspector of Schools, Primary Education, Kolkata

had declined to review the office memorandum dated 23rd March, 2010.

Learned counsel for the State respondents has submitted that the school may approach to the District Inspector of Schools, Primary Education, Kolkata, with proper authenticated documents regarding vacancy created due to retirement of Smt. Chanda Sharma by clarifying in whose place the name of the appellant was proposed.

We direct the District Inspector of Schools, Primary Education, Kolkata, to revisit the issue for fresh consideration, only after going through the documents to be produced by the school.

However, we make it clear that on the basis of available records the decision of D.I cannot be questioned.

On such consideration, the appeal being FMA 71 of 2022 is disposed of.

In view of disposal of the appeal, CAN 1 of 2021 is also disposed of.

(Uday Kumar, J.)

(Soumen Sen, J.)

