

Item-2. 18-09-2023

FMA 1089 of 2022
CAN 1 of 2022

sg Ct. 8

Binapani Mondal
Versus
The State of West Bengal & Ors.

Mr. R. Chatterjee, Adv.
Mr. Aniruddha Mitra, Adv.
...for the appellant
Mr. Prosenjit De, Adv.
...for the respondent no.4
Mr. Arindam Chattopadhyay, Adv.
Ms. Lipika Chatterjee, Adv.
...for the State

1. The affidavit filed on behalf of the Secretary of the Managing Committee of the respondent school and the report in the form of affidavit filed on behalf of the District Inspector of Schools (SE), Birbhum, are taken on record.
2. Undisputedly, the petitioner was appointed on 15th February, 2000 in order to meet up the deficiency in the staff strength for which the recognition was withheld. The said school is a Junior High School and the then District Inspector of Schools (S.E) has given an approval for appointment of four teaching staff, one clerk and one Group-D staff in the said school with effect from 1st May, 2001.
3. The School Authority appointed one Abdur Rob as a Group-D staff of the school with effect from 16th January, 1975 and the service of Abdur Rob was approved with effect from 1st May, 2002 vide the office memo no. 1413/4/G dated 8th May, 2002.
4. It clearly shows that appointment of the petitioner made by the School Authority was beyond the sanctioned strength and

in violation of the existing Government Rules, because Latiful Khabir and Abdur Rob who were offered approval of appointments as non-teaching staff to the extent of maximum admissible strength for such category of staff as per Rules. The West Bengal Board of Secondary Education had observed that the respondent school had no lady teacher and lady matron. To fulfil the deficiency, the school authorities were required to exclude one of the teaching staff by appointing Smt. Binapani Monal. However, the school authority did not do so.

5. In paragraph 8 of the affidavit filed by the District Inspector of Schools (S.E.), the D.I. has given the following reasons to deny the appointment of the petitioner, which are as follows:

“1. As per clause 7 of The West Bengal School (Control of Expenditure) Act, no person who has been appointed as teacher or non-teaching staff or any casual or part time vacancy or on contract basis in a school shall have any right to be appointed on permanent basis in any sanctioned post or by creating any new post only for rendering such service.

2. In terms of the School Education Department, No. 697-Es/S/IS-18/08 dated 09/07/2009, the notification under the title The West Bengal School Service Commission (Selection of persons for appointment to the post of non-teaching staff) Rules, 2009 all recruitment of non-teaching staff of all recognized non-govt. aided educational institutions in the state solely on recommendation of the West Bengal School

Service Commission.

3. The Management of recognized Non-Governments Institutions (Aided and Unaided) Rules 1969 as amendment on 22.10.1997 (G.O. No. 900 SE(S), dated 22.10.1997 and 97.SE(S). dated 21.01.2003. Non-teaching staff must be recruited as per procedure contained in Memo No. 1736(21) G.A. dated 01/11/1999 and now through W.B.B.S.C.”

6. In the facts and circumstances of the case, we do not find any reason to interfere with the order passed by the learned Single Judge. The appeal fails.
7. Accordingly, FMA 1089 of 2022 and CAN 1 of 2022 are dismissed. However, there shall be no order as to costs.

(Prasenjit Biswas, J.)

(Soumen Sen, J.)