

04. 12.09.2023
bd. Ct.15

WPA 19803 of 2017

Samir Ghosh

-vs-

The State of West Bengal & Ors.

Mr. Arif Ali

Mr. Md. Faizan Yakub ... For the petitioner.

Mr. Pinaki Dhole ... for the State

Petitioner claims enhancement of monthly remuneration in terms of the memorandum dated 20th May, 2013 being no. 4011 F (P) issued by the O.S.D. & E.O. Joint Secretary to the Government of West Bengal in consideration of the fact that petitioner was initially appointed vide order dated 1st November, 2002 by the Executive Officer, Dinhata-II Panchayat Samity and subsequently engaged as casual worker in Dinhata-II Panchayat Samity as it appears from page 29 of the writ petition wherefrom it is revealed that petitioner was engaged as a casual worker working in the Block Development Office Dinhata-II Development Block, District-Cooch Behar. Placing reliance on a Government Memorandum dated 20th May, 2013 petitioner has claimed enhancement of remuneration. It is also brought to the notice of this Court that similarly circumstanced candidate has been favoured with payment of monthly remuneration pursuant to the said Government memorandum dated 20th May, 2013 in terms of the order passed by a coordinate Bench on a writ petition being WPA 19803 of 2017 passed on 7th September, 2017.

A report has been filed by the Block Development Officer, Dinhata-II, Development Block, Cooch Behar dated 1st September, 2023 today which is taken on record.

It appears from the said report that in terms of Government memorandum dated 20th May, 2013 petitioner was sanctioned wage @ Rs.7000/- per month with effect from 1st May, 2013 vide memo no. 27 dated 26th December, 2013 by the concerned Block Development Officer and subsequently was sanctioned to draw wage @ Rs. 14,500/- for the month of April, 2017 vide Bill No. 24 dated 28th April, 2017 but subsequently such enhanced remuneration could not be paid to the petitioner in view of objection raised by the treasury office. However, it has further been disclosed in the said report that at present petitioner has not been engaged as regular worker and is not withdrawing any remuneration from the office of the concerned Block Development Officer.

Mr. Dhole, learned advocate representing the State respondents submits that benefit of Government memorandum dated 20th May, 2013 ought to be considered in continuation of the previous memorandum dated 16th September, 2011 being Memo No. 9008-F (P).

According to the petitioner the conditions stipulated in the first Government memorandum dated 16th September, 2011 need to be fulfilled in order to get the benefit of these two memoranda dated 16th September, 2011 and 20th May, 2013.

Having considered the submissions made on behalf of the parties and on perusal of the report of the concerned Block Development Officer dated 1st September, 2023 it appears that the petitioner was initially engaged in Dinhata-II Panchayat Samity vide order dated 1st November, 2002 and the report dated 1st September, 2023 discloses the fact that the remuneration of the petitioner was enhanced first to Rs. 7,000/- per month with effect from 1st May, 2013 and subsequently to Rs. 14,500/- from the month of April 2017 which goes to show that petitioner functioned as casual worker under the aforesaid Panchayat Samity up to April 2017. In view of engagement of petitioner for such a long period of time it needs to be taken into consideration whether petitioner is entitled to get the benefit of two memoranda dated 16th September, 2011 and 20th May, 2013 or not. It is not clear to this Court that on what basis even after sanctioning the enhanced remuneration the same was withdrawn.

Accordingly, the Secretary, Department of Panchayat & Rural Development, being the respondent no. 1 is directed to take a reasoned decision on the claim of the petitioner to get the benefit of two Government memoranda dated 16th September, 2011 and 20th May, 2013 within a period of (12) twelve weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or his representative and the representative of Dinhata- II Panchayat Samity, District-Cooch Behar.

The decision to be taken by the respondent no. 1 shall be communicated to the petitioner within one week thereafter.

However, it is made clear that petitioner shall be at liberty to rely upon all the documents and the orders passed by this Court in order to establish his right to get the benefit of two Government memoranda dated 16th September, 2011 and 20th May, 2013 at the time of consideration of the issue by the respondent no. 1.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)