

11.01.2023
Item No. 49
Ct. No. 25
PG

W.P.A. 20853 of 2017
With
I.A. No. CAN 1 of 2017 (Old CAN 9987 of 2017)
Bandana alias Pintu Bhattacharya
Vs.
The State of West Bengal & Ors.

Mr. Tapas Kr. Bhattacharya
Mr. Asish Kr. Paul.....for the petitioner

Ms. Iti Dutta.....for the State

The petitioner has prayed for regularisation of her service as an Assistant Teacher in the primary section of Beltala Girls' High School. The petitioner claims that she was appointed sometimes in the year 1997 and is continuing to render her service in the said school in such capacity till date.

Pursuant to an order passed by a coordinate Bench of this Court on April 24, 2017 in W.P. 1748(W) of 2006, the petitioner was asked to attend the hearing before the Chairman, Kolkata Primary School Council (for short 'the Council') on June 07, 2017 for consideration of her prayer for regularisation in service. The Chairman of the Council by an order dated July 17, 2017 rejected such prayer for regularisation of service of the writ petitioner.

Mr. Tapas Kr. Bhattacharya, learned advocate representing the petitioner draws the

attention of the Court to the order dated April 24, 2017 passed in W.P. 1748(W) of 2006 and submits that the coordinate Bench by the said order directed the said respondent to consider the prayer of the petitioner and pass a reasoned order in accordance with the applicable rules/regulations/notifications/circulars. He further submits that the coordinate Bench directed the concerned respondent to take a sympathetic view of the petitioner's case since she had been rendering service for last 20 years at the time when the earlier writ petition was disposed of.

Mr. Bhattacharya submits that the Chairman of the Council did not consider the case of the petitioner sympathetically in terms of the direction passed by the coordinate Bench.

Heard the learned advocates for the petitioner and Ms. Dutta, learned advocate representing the State. None appears for the school authority in spite of service. Affidavit of service filed in Court today is taken on record.

After perusing the order of the Chairman of the Council dated July 17, 2017, this Court finds that it has been specifically recorded in the said order that the writ petitioner was neither appointed by the Council from the approved panel nor against any regular vacancy. It was further recorded that it is not the case of the petitioner that she joined the school

due to teacher-pupil ratio. Thus, the said respondent held that since the petitioner was neither appointed following the recruitment rules, her engagement in the Baby section of the school is illegal and in blatant violation of the recruitment rules. The said authority also took note of the Constitution Bench judgment of the Hon'ble Supreme Court of India in the case of **Secretary, State of Karnataka vs. Uma Devi (3) and Ors.** reported at **(2006) 4 SCC 1** and was perfectly justified in applying the ratio laid down therein to the facts of this case. The learned advocate for the petitioner could not rebut the factual findings returned by the concerned authority.

It is well-settled that judicial review is not directed against the decision but against the decision making process. There is no infirmity in the decision making process warranting interference by this Court sitting under Article 226 of the Constitution of India. Accordingly, the writ petition stands dismissed. Consequently, the connected application being I.A. No. CAN 1 of 2017 (Old CAN 9987 of 2017) also stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)