

10.10.2023
Item No.1
gd/ssd

WPA(P)/522/2023
SWADESH MAJUMDAR
VS
STATE OF WEST BENGAL AND ORS.

Mr. Arunangshu Chakraborty,
Mr. Arijit Bera,
Ms. Geniya Mukherjee,
Ms. Zeba Rashid,
Ms. Shrabani Banerjee,
Ms. Shaika Amrin
..for the Petitioner.

Mr. Samrat Sen,
Mr. Dipnath Roychowdhury
..for the State.

Mr. Jaydip Kar,
Mr. Pijush Biswas,
Mr. Puspashis Gupta,
Mr. Abhisek Baran Das
..for the Respondent Nos.3, 5, 6 and 7.

1. By way of public interest litigation the petitioner, namely, Sri Swadesh Majumdar stating that he is a taxpayer and social activist has approached this court praying for issuance of a Writ of Mandamus to declare the decision to absorb the 51 staff of Webel Technology Limited as direct contractual staff of Kazi Nazrul University is being illegal and it is a nullity. The other prayers sought for are also relating to the 51 staff who have been brought as direct contractual staff of the respondent University.

2. In the writ petition the 51 persons whose contractual engagement is sought to be questioned are not made as parties. Apart from that, the decision

taken by the University to make the temporary members of the non-teaching staff recruited through WTL as University's own contractual staff is a decision taken by the University for better administration.

3. In any event, the matter being purely a service matter, no writ petition as a public interest litigation can be entertained.

4. The learned counsel appearing for the petitioner would place reliance on the decision of the Hon'ble Supreme Court in *Secretary, State of Karnataka and Others v. Uma Devi (3) and Others* reported in (2006) 4 SCC 1 and has referred to paragraphs 42 and 43 of the said judgment. The said decision arose out of cases where the temporary employees had sought relief before the Tribunal seeking absorption/regularization. There was also a writ petition filed seeking similar orders and there were two sets of orders passed by the High Court and the matter ultimately travelled to the Hon'ble Supreme Court.

5. In our considered view, the decision in *Uma Devi (3)* can have no application to the case on hand, more importantly, the matter being a service matter, a decision taken by the respondent University to bring certain non-teaching staff as their own contractual staff, such decision cannot be interfered with in a public interest litigation.

6. The learned advocate has also referred to a decision in the case of the Hon'ble Supreme Court in the case of *State of Punjab v. Bahadur Singh and Others* reported in (2008) 15 SCC 737 and has referred to paragraph 12 of the said judgment. In the said paragraph several other decisions of the Hon'ble Supreme Court have been noted and the matter concerns a case for direct regularization in relation to appointments which were irregular in nature.

7. In our considered view, the said decision can have no application to the facts and circumstances of the case.

8. Learned advocate also placed reliance on the decision of the Hon'ble Supreme Court in MA No.1150 of 2019 in Contempt Petition (Civil) No.1921 of 2017 in Civil Appeal No.6950 of 2009 in the case of *Ranbir Singh v. S.K. Roy, Chairman, Life Insurance Corporation and Another* dated 27th April, 2022 and has referred to paragraph 72 of the said judgment. The said decision arose out of an order passed by the Hon'ble Supreme Court and the contempt petition was filed alleging disobedience of the order. In paragraph 72 the Hon'ble Supreme Court has pointed out that Life Insurance Corporation as a statutory Corporation is bound by the mandate of Articles 14 and 16 of the Constitution. As a public employer, the recruitment process of the Corporation must meet the

constitutional standard of a fair and open process and allowing for back-door entries into service is an anathema to public service. As already pointed out, the matter concerning a service matter cannot be decided in a public interest litigation. Apart from that, the writ petition also suffers from inherent error in not impleading the relevant parties.

9. For the above reasons, the writ petition stands dismissed as not maintainable.

10. We make it clear that the writ petition has been dismissed as not maintainable and the merits of the decision taken by the University have not been gone into.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)