

19.7.2023

rpan/46

WPA 22285 of 2019

Md. Abdur Rahim & Others
Vs.
The State of West Bengal & Ors.

Mr. Bidhan Biswas,
Mr. Debansu Nandi
... for the Petitioners.

Mr. Tapan Kumar Mukherjee,
Mr. Shamim ul Bari
... for the State/Respondents.

This is a hearing matter. Despite direction for affidavits being made by a co-ordinate Bench on December 9, 2019, no affidavit-in-opposition was filed by the respondents.

Considering the issue involved in this writ petition, this Court was of the view that no useful purpose shall be served by keeping this writ petition pending. Such pendency shall only create prejudice to the claim of the petitioners. In such view of the matter, the writ petition was taken up for final disposal.

Mr. Bidhan Biswas, learned advocate appeared for the petitioners.

Mr. Shamim ul Bari, learned advocate, led by Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader appeared for the State/Respondent nos.1-3.

The petitioners claimed that they are working as teaching and non-teaching staff at one **Karbona Kanchannagar High Madrasah, District – Malda**. The employment of the petitioners were approved with effect from February 24, 2011. They claimed an earlier approval with effect from May 1, 1995.

Referring to **Annexure – ‘P-11’ at page 71** to the writ petition, Mr. Bidhan Biswas, learned advocate appeared for the petitioners submitted that the said representation was duly made before the respondent no.3 but still is pending without any result. Referring to a judgment of a co-ordinate Bench dated June 5, 2018 rendered in **W.P. 24154(W) of 2017, In the matter of: Md. Abdul Towab Vs. The State of West Bengal & Ors.**, annexed **at page 71** to the writ petition (**Annexure – ‘P-9’**) learned advocate submitted that the issue had already been decided and one of the similarly placed candidates had obtained the benefit from the State authority. Learned advocate further referred to the office order dated July 4, 2018 [**Annexure – ‘P-10’ at page 70 to the writ petition**] in this regard. Thus the petitioners also claimed their approval since May 1, 1995.

Mr. Shamim ul Bari, learned advocate appeared for the State/respondents.

After considering the submissions made on behalf of the parties and after considering the materials on record, this Court is of the view that, to subserve justice

the respondent no.2, as submitted by Mr. Bari the appropriate authority to consider the representation of the petitioners, shall issue at least a prior hearing notice of seven days upon the petitioners and the respondent nos.4 and 5 and then after giving an opportunity of hearing by treating the said representation of the petitioners dated September 19, 2019 [**Annexure – ‘P-11’ at page 71 to the writ petition**], as if submitted before him, shall decide the issue by passing a reasoned order in accordance with law.

It is made clear that while deciding the issue the respondent no.2 shall consider the judgment of the coordinate Bench **In the matter of: Md. Abdul Towab (Supra) [Annexure – ‘P-9’ at page 62 to the writ petition]**.

The respondent no.2 shall carry out and complete the entire exercise, as directed above positively within a period of **six weeks** from date of communication of this order and shall communicate the reasoned order to the petitioners and the respondent nos.4 and 5 within a further period of **two weeks** from the date of the said reasoned order.

It is made clear that this Court has not gone into the merits of the claim of the petitioners in any manner and the petitioners and the relevant Madrasah authority shall be at liberty to urge whatever points they wish to

urge by relying upon whatever records and documents they wish to rely upon before the respondent no.2.

In the event, the reasoned order goes in favour of the petitioners, then the respondent no.2 shall give effect thereto immediately and positively within a further period of **four weeks** from the date of the said reasoned order.

It is made clear that this order shall not create any equity or right in favour of the petitioners and the representation of the petitioners shall be decided strictly in accordance with law by the respondent no.2.

The learned advocate-on-record for the petitioners shall communicate this order along with a copy of the writ petition to the respondent no.2.

On the above terms this writ petition, being **WPA 22285 of 2019** stands disposed of, without any order as to costs.

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

(Aniruddha Roy, J.)