

Court No.
19.01.2023

(Item No. 80)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 25441 of 2022

Shankar Karmakar
VS
The State of West Bengal

Mr. Saibal Kumar Acharya
Mr. S. B. Mukherjee
.... For the petitioner
Mr. Lalit Mohan Mahata
Mr. Amit Bikram Mahata
Mr. Aditya Bikram Mahata
.... For respondent Nos. 8 & 9
Mr. Sudipto Panda
Mr. Sajal Kumar Pandit
.... For respondent No. 5

Pursuant to the direction made by this Court on December 20, 2022 an affidavit report affirmed on January 5, 2023 on behalf of the respondent Nos. 8 & 9 is filed in Court today, the same is taken on record. A copy has been served upon Mr. Saibal Kumar Acharya, learned counsel appearing for the petitioner.

The petitioner has also filed an exception affidavit to the report affirmed on January 17, 2023, the same is taken on record. A copy has already been served upon the respondent Nos. 8 & 9 and the State respondents.

The writ petitioner was employed as a **Peon**, **Group 'D'** cadre under the category of **Schedule Caste at Bikramjit Goswami Memorial College, Purulia**. The appointment of the petitioner as a Peon

would be evident from the documents at **pages 25 to 31** to the writ petition.

The relevant facts had already been narrated by this Court in its order dated December 8, 2022, such order speaks for itself.

Initially at the intervention of the Court the entire selection panel relevant for the petitioner's selection was set aside the issue travelled up to the Hon'ble Division Bench. Pursuant to the direction of the Hon'ble Division Bench, a co-ordinate Bench had made a detail enquiry into the matter and ultimately upheld the employment of the petitioner at the said College.

Pursuant to the direction made by this Court, the affidavit report has been filed on behalf of the respondent Nos. 8 and 9 and the petitioner filed an exception affidavit thereto. On a close perusal of the said two documents it appears that, the stand of the relevant College authority was that, it was not the authority of the College to regularize the employment tenure of the petitioner during which the petitioner was terminated though by direction of this Court such termination of the petitioner's employment was set aside and the petitioner was reinstated in his employment. The petitioner in its exception affidavit denied such contention and submitted that, it is only the College authority who shall do the needful to rectify the service record of the petitioner in a manner

as if there was no termination of service of the petitioner from the date of his joining i.e. June 13, 2011 for which the approval was issued by the respondent No. 2 on January 2, 2012 and shall forward the same with necessary records and papers as if the petitioner had an unblemished service career since his joining i.e. June 13, 2011.

It is pertinent to note that, the petitioner had been reinstated to his employment on and still has been working at the said College for the said post since December 17, 2022.

Considering the submissions made on behalf of the parties and on perusal of materials on record, the relevant College authority i.e. **respondent Nos. 8 and 9** are directed to forthwith rectify the service record of the petitioner in the manner stated above and to send the same with all necessary documents and papers before the respondent No. 2 positively within a period of two weeks from the date of communication of this order.

The respondent No. 2 in turn shall approve the service record of the petitioner in the manner stated above, in accordance with law and inform the petitioner and the respondent Nos. 8 and 9 positively within a further period of four weeks after receiving the intimation from the respondent Nos. 8 and 9 as directed above.

It is further made clear that, the entire employment tenure of the petitioner should be considered and construed as if, the petitioner had a continuous service tenure since his joining without any termination or breakage in any manner whatsoever.

On the above terms, this writ petition being **WPA 25441 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)