

S/L 42
02.05.2023
Court. No. 12
Sourav

WPA 25802 of 2015

Haradhan Adak
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Roy
Mr. Ranjana Har Chowdhury

...for the petitioner.

Mr. Biswabrata Basu Mallick
Mr. Sanjib Das

...for the State.

1. The writ petitioner and the respondent nos. 1, 2 and 3 are represented by their respective learned advocates.
2. The instant writ petition is now taken up for hearing.
3. Heard learned advocates for both the sides at length.
4. The instant writ petition is now taken up for passing appropriate order.
5. By filing the instant writ petition under Article 226 of the Constitution of India, the writ petitioner has basically prayed for quashing of the Memo No. 523-L/1(5) dated 28.10.2014 as issued by the District Inspector of Schools (SE), Purba Medinipur i.e., the respondent no. 3 herein. By the impugned memo, the respondent no. 3 has turned down the prayer of the present writ petitioner to be considered as an organizing teacher in the Hatiberia Arun Chandra Jr. High School (hereinafter referred to as “the said school”).
6. In support of the instant writ petition, learned advocate for the writ petitioner at the very outset draws attention of this Court to the photocopy of the

order dated 15.01.2014 as passed by a co-ordinate Bench of this Court in WP No. 82396 (W) of 2005 wherein following orders have been passed:

“In view of the stand taken by the school, there will be a direction upon the respondent no. 6 to absorb the writ petitioner to resume his work as organising teacher of the school with immediate effect.

There shall also be a direction upon the concerned respondent no. 3 to consider the claim of approval of appointment of the writ petitioner and dispose of the same by a reasoned order and upon giving the writ petitioner an opportunity of being heard in support of his claim for approval from early date alongwith the notional benefits within a period of four weeks from the date of communication of this order by the petitioner obtained from the official website of this court.

The respondent no. 6 is also directed to furnish all relevant documents that may required by the respondent no. 3 in conduct such exercise.”

7. Drawing attention to the page nos. 63 and 64 of the instant writ petition, it has been contended by the writ petitioner that in terms of the order of the Hon'ble Court as passed in WP No. 8239 (W) of 2005, the writ petitioner was absorbed as an organizing teacher of the said school and since then he is discharging his duty as an organizing teacher in

view of the direction of this Hon'ble Court. Drawing attention to the impugned memo, it is contended by the learned advocate for the writ petitioner that the respondent no. 3 by the impugned memo, rejected the prayer for his regularization on no ground at all and, therefore, the said memo may be quashed by this Court in exercise of its plenary power under Article 226 of the Constitution of India.

8. *Per contra*, Mr. Basu Mallick, learned advocate for the State also places his reliance upon the impugned memo. It is contended by Mr. Basu Mallick that from the impugned memo, it would reveal that the respondent no. 3 i.e., the District Inspector of Schools (SE), Purba Medinipur has passed an absolutely reasoned order for which no interference of this writ court is required. It is submitted by Mr. Basu Mallick, learned advocate for the State that before the respondent no. 3, the petitioner has miserably failed to substantiate his claim by producing cogent documents as are required to be done by him. Mr. Basu Mallick, thus submits before this Court that it is a fit case for dismissal of the instant writ petition.
9. On perusal of the entire materials as placed before the Court and after hearing the learned advocates for the contending parties, it reveals to this Court that in WP No. 8239 (W) of 2005, a co-ordinate Bench of this Court by its order dated 15.01.2014 directed the authority of the said school to absorb the writ petitioner to resume his work as organizing teacher

in the said school with immediate effect with a further direction upon the respondent no. 3 herein to consider the claim of approval of the present writ petitioner and to dispose of the same by a reasoned order.

10. It thus reveals from the said order dated 15.01.2014 that this Hon'ble Court in WP No. 8239 (W) of 2005 though directed the authority of the said school to absorb the present writ petitioner as an organizing teacher, however, the claim of the present writ petitioner with regard to the approval of his appointment as an organizing teacher has been kept open for the decision of the present respondent no. 3 i.e. the District Inspector of Schools (SE), Purba Medinipur.
11. On perusal of the impugned memo dated 28.10.2014, it reveals to this Court that while dealing with the representation of the writ petitioner, the District Inspector of Schools (SE), Purba Medinipur passed the following order:

“The petitioner in his submission states that he had working as an organizer teacher in Geography for the unrecognized section IX & X since June-1994, but in support neither the petitioner nor the school authority could produce any documents such as M.C. resolution regarding his appointment, appointment letter issued by the Secretary of the school, joining letter of the petitioner etc. Teacher’s attendance register of the

school shows that the petitioner worked in the school from once upon a time in the year 1996 to till the first quarter of the year 1998 only and only for that short term voluntary unapproved service the petitioner cannot claim permanent appointment. The petitioner alleged that he was prevented forcibly by the School Authority to perform his duty since March-2000 before the inspection made by the District Level Inspection Team on the eve of granting recognition of X-Class High School but he fails to produce any document relating to his prevention from duty in the school, moreover he as well as the school authority fail to produce documents by which his continuous duty in the school from 2nd quarter of the 1998 and onwards could be proved. Whereas in the written submission the petitioner states that the present school authority has admitted his continuous workin the in school before Hon'ble High Court at the time of hearing but both of them fail to produce any documents mentioning period of service before me at the time of hearing. It is pertinent to mention here that present staff pattern of the shool shows that all the three (03) sanctioned posts in Social Science Group in Normal Section have already been filled up and out of three posts two posts have been filled by the teachers in Geography, one under Pass Graduate Category and the

other under Post Graduate Category. If the qualification of the petitioner be considered as M.Com then I am unable to prove his service as there neither any berth of M.Com Degree holder in Normal Section in H.S. Section of the school having Arts & Science Stream only.

Above all no school authority has any power to appoint any teacher for unrecognized section of the school and if any school does so such act would be treated as illegal and such appointment cannot be considered for approval. In this context I rely upon two judgments one passed on 06.09.2006 by Hon'ble Division Bench of Hon'ble High Court, at Calcutta in F.M.A. No. 1425 of 2003 (Manindra Nath Sinha and Others Vs. State of West Bengal and Others) and other passed on 14.09.2007 by Hon'ble Supreme Court in the matter State of West Bengal & Ors. Vs. Sritikana Maity & Ors. AND State of West Bengal & Ors. Vs. Harendranath Mondal & Ors. which are same and identical matters and in all these cases Hon'ble Court Orders have gone against the claim of the petitioners.

From the above findings I am in the opinion that as the petitionr and the school authority have failed to produce sufficient documents regarding appointment of the petitioner as an Organizer Teacher and his continuous service records, so the petitioner cannot be considered as an Organizer Teacher in the school.

Moreover in identical matters Hon'ble Court have passed orders against the claims of the respective petitioners, hence I regret that I am unable to give relief to the petitioner as he prayed for."

12. On perusal of the above order, it reveals to this Court that in spite of opportunity given by this Court in WP No. 8239 (W) of 2005, the present writ petitioner has miserably failed to prove his case either by submitting relevant documents or otherwise to substantiate his claim. On the contrary, it reveals from the impugned order that both the present writ petitioner and the authority of the said school failed to produce any document to substantiate that the present writ petitioner was performing his duty from the second quarter of 1998 onwards. It further reveals from the impugned order that as against three sanctioned posts in Social Science Stream in the school all the three posts have been filled up by the teachers in Geography.
13. Such being the position, this Court holds that under no stretch of imagination, it can be held that the order as passed by the respondent no. 3 under impugned memo no. 523-L/1(5) dated 28.10.2014 is not in accordance with law and, therefore, this Court finds that the instant writ petition being **WPA 25802 of 2015** is devoid of any merit and thus dismissed.

14. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)