

Item-5. 17-07-2023

MAT 1987 of 2019
CAN 1 of 2020 (old CAN 991 of 2020)

sg Ct. 8

Bikash Kumar Bag
Versus
The State of West Bengal & Ors.

Mr. K.M. Hossain, Adv.

...for the appellant

Mr. Shamim ul Bari, Adv.

...for the State

The appeal is arising out of an order dated 25th November, 2019 in connection with a writ petition filed by the petitioner for a direction upon the school to allow him to resume his duty and to release all current arrear salaries.

The records reveal that the petitioner was appointed as Para-Teacher in the year 2006. The contract of engagement was for a period of one year terminable upon notice of one month or upon expiry of one year. The petitioner relied upon a circular of the Government of Education Department issued in the year 2010 whereby extending the tenure of Para-Teacher engaged like the appellant for a contractual period of one year until the age of 60 years and if at all the question of termination arises, it should be in terms of the normal procedure followed for regular teachers. The appellant contended that he served the school after his service was extended on the basis of the Circular dated 2010 until 2011. It was alleged that due to political rivalry, he had to leave his place of residence in the year 2011 and he could only return in the year 2017.

The learned Single Judge upon noticing that for the six

years he never approached the court of law or expressed his desire to resume his duty as Para-Teacher in the school in question. It is a clear case of abandonment of service. It is quite unbelievable that for almost six years, the situation continued unabated and was as bad as of 2011. The allegation of serious disturbance and terror like situation existing in the year 2011 which presumably made his stay unsafe in the area could not have continued for six years as the evidence is contrary to the claim of the appellant. Moreover, the appointment of the petitioner was purely contractual and he has no vested right. The learned Single Judge has recorded that the writ petitioner could not produce any document between the year 2011 and 2017 expressing his desire either to the local police or to the school to join his service or expressing reason for not being able to join the service. The Circular of the Government of West Bengal relied upon by the appellant would have come to the aid by the writ petitioner provided he continued in service regularly.

Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.

The appeal fails. However, there shall be no order as to costs. MAT 1987 of 2019 is dismissed.

In view of the dismissal of the appeal, the connected application stands dismissed.

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

(Uday Kumar, J.)

(Soumen Sen, J.)

