

WPA 27531 of 2022

Masud Alom
vs.
The State of West Bengal & Ors.

Mr. Sumit Naskar
Md. Ashraful Haque

.....for the petitioner

Mr.Arindam Chattopadhyay
Ms. Lipika Chatterjee
Mr. Soumik Dey

...for the respondent Nos. 2 & 3

Mr. Pinaki Dhole
Mr. Avishek Prasad

.....for the State

By an order dated September 23, 2022 passed in WPA 9235 of 2022, this Court directed the representation of the petitioner to be considered for engagement as a Cluster Organizer under the District Field Supervisor, Murshidabad.

It is the petitioner's case that he was working with the West Bengal Minorities' Development & Finance Corporation (WBMD &FC) and performed his duties sincerely and diligently.

The petitioner suffered a bullet injury on November 28, 2011 and was discharged from hospital on December 3, 2011.

The petitioner was assured a permanent job due to such attack, while performing of his duties. The petitioner was allowed to resume his duty after discharge from the hospital. The petitioner made a representation on February 8, 2021 for consideration of his case for appointment as a regular permanent employee.

Upon directions passed by this Court on September 23, 2022, the petitioner was given a hearing and his representation was disposed of on November 25, 2022. Such order passed on November 25, 2022 is impugned herein. In the impugned order it has been recorded that the Field Supervisor who issued an identity card to the petitioner as a Cluster Organizer was not authorised to do so as he was a contractual employee himself. Furthermore, the experience certificate issued to the petitioner by the same Field Supervisor was again beyond the power of his engagement. Therefore, the petitioner's prayer for regularisation could not be acceded to as his initial engagement was not only irregular but void.

This Court enquired regarding the steps taken against the private respondent No. 6, since it was the submission of the respondent corporation that the private respondent No. 6 was not authorised to engage the petitioner as a Cluster Organizer. The respondent Nos. 2 and 3/corporation/employer was

directed to file an additional Report on Affidavit. This Court was of the view that the steps taken against the respondent No. 6 should be brought on record prior to challenging the locus standi of the petitioner. From the additional Report on Affidavit filed on behalf of the Corporation on May 17, 2023 it appears that the private respondent No. 6 was disengaged from his position as a Field Supervisor with effect from November 18, 2022. Thereafter, his appeals dated November 21, 2022 and March 16, 2023 were considered by the Chairman of the Corporation. Considering his distressed condition the Chairman of the Corporation on compassionate ground re-engaged him as a Field Supervisor in Blocks other than 'Domkal' and 'Raninagar - I', where he was earlier engaged as Field Supervisor and subsequently removed by an order dated November 18, 2022.

This Court finds it that perplexing that the perpetrator of the offence who wrongly issued the certificate of a Cluster Organizer to the petitioner and also issued the certificate of experience to the petitioner has sought to be re-engaged by the Chairman of the corporation whereas the petitioner who has been performing his duties diligently has not been re-engaged by the corporation.

Furthermore, this Court also finds it perplexing that the distressed condition of the private respondent No. 6's family was taken into consideration whereas the distressed condition of the petitioner's family was not taken into consideration. Furthermore, it has not been taken into consideration that the petitioner suffered a bullet injury for which he was hospitalised during the course of his duty that he was performing as a Cluster Organizer upon being engaged by the private respondent No. 6. Unfortunately, in the Report on Affidavit as well as in the Additional Report the Chairman of the corporation has not been able to explain the discriminatory treatment meted out to the petitioner vis-à-vis the private respondent No. 6. Such an act on the part of the corporation cannot be appreciated by this Court.

In the light of the discussions hereinabove, the impugned order dated November 25, 2022 is set aside and/or quashed. The petitioner's representation for being engaged as a Cluster Organizer shall be re-considered even if his prayer for regularisation as a permanent employee is not considered. In considering the representation of the petitioner the Chairman, WBMD &FC shall keep in mind the factum of re-engagement of private respondent No. 6 who is the primary perpetrator of

the offence. Such representation shall be considered within four weeks from date upon giving a personal hearing to the petitioner and a reasoned order shall be passed and communicated to the petitioner within one week of passing of the same.

With the directions aforesaid **WPA 27531 of 2022** is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)