

09. 21.06.2023
bd. Ct.15

W.P.A. 28892 of 2017
IA No. CAN 1/2020 (Old No. CAN 1576/2020)

Chandra Pratihar

-vs-

State of West Bengal & Ors.

Mr. Abhimanyu Banerjee

Ms. Roshni Kalam ... for the petitioner.

Mr. Suddhadeb Adak

Ms. Arpita Mondal ... for the Municipality

The writ petitioner alleges that though she worked as a contractual employee in connection with Swarna Jayanti Sahari Rojgar Yojna (SJSRY) which was subsequently renamed as National Urban Livelihood Mission (NULM) and was initially engaged vide letter dated 5th March, 1999 with effect from 15th March, 1999, the concerned respondent authorities in consideration of her long past service ought not to have discontinued her service with effect from November, 2017 and non-payment of remuneration from June 2017 is also untenable.

During course of hearing the learned advocate has strenuously argued upon placing reliance on the engagement letter issued in favour of the petitioner dated 5th March, 1999, that time to time designation of the petitioner was changed and petitioner discharged duty regularly and has laid emphasis on the fact that the aforesaid project is still continuing; therefore petitioner's service ought not to have been dispensed with in such a manner by the concerned respondent authorities. During course of hearing attention of this Court has been drawn to page 66 of the writ petition which contains

a show-cause letter dated 10th March, 2017. According to the petitioner, such letter was duly replied by the petitioner. It has also been submitted that before terminating the service of the petitioner principle of natural justice ought to have been followed by the concerned respondent authorities thereby granting the petitioner chance to present her case, which has not been done. Therefore, steps taken by the concerned respondent authorities in terminating service of the petitioner and non-payment of remuneration need to be set aside as it has been submitted on behalf of the petitioner since there is violation of principle of natural justice and failure of the respondent authorities to initiate disciplinary proceeding.

Learned advocate representing Arambagh Municipality has opposed such prayer made on behalf of the petitioner and submits that petitioner was a project worker who was initially appointed purely on temporary basis on a fixed remuneration of Rs. 2000/ per month and such engagement was for a period of six months. Therefore, according to the Municipality at the time of dispensing with her service there is no requirement to initiate disciplinary proceeding.

This Court has heard the learned advocates representing the parties and perused the relevant materials available on record.

This Court on considering the nature of engagement made in favour of the petitioner finds that both the engagement letters dated 5th March, 1999 and 21st November, 2008 depicts petitioner's

engagement in connection with a project that too for a period of six months against a fixed remuneration on temporary basis. Petitioner may have rendered service for a considerable period of time but being project employee who was appointed initially for a period of six months against fixed remuneration; termination of service of such employee does not call for initiation of disciplinary proceeding.

This Court has also posed query to the learned advocate representing the petitioner whether there is any statutory prescriptions requiring the appointing authority to initiate disciplinary proceeding against the petitioner before termination. However, this Court does not get any satisfactory answer relating to existence of statutory prescriptions/rules.

In view of aforesaid scenario and in consideration of nature of engagement it appears same does not confer any enforceable right upon her requiring initiation of disciplinary proceeding before termination. Since no right is accrued in favour of the petitioner warranting issuance of mandamus in order to protect her service this Court is not inclined to interfere with the steps taken by the concerned respondent authorities.

Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Application, if any pending also stands dismissed.

Affidavit-in-reply filed on behalf of the petitioner is taken on record.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)