

26. 26.09.2023
bd. Ct.15

W.P.A. 26863 of 2014

Rabindra Nath Giri

-vs-

The State of West Bengal & Ors.

Mr. Monoranjan Jana

Ms. Mitali Jana ... for the petitioner.

Mr. Debjit Mukherjee

Ms. Kalpita Paul ... for the State.

Petitioner claims payment of salary for his engagement as Group-“C” casual worker with effect from 1st August, 2011 based on an allegation that on being appointed on 1st August, 2011 as Group-“C” worker in Gopiballavpur No.1, Panchayat Samity remuneration was paid to the petitioner till February 2014 and from the month of March 2014 no monthly remuneration was paid to the petitioner. Being aggrieved by non payment of monthly remuneration petitioner has filed this writ petition claiming resumption of payment of monthly remuneration with effect from March 2014 on the ground that petitioner worked as Group-“C” clerk in the Gopiballavpur No.1, Panchayat Samity even in the month of August 2014.

Mr. Mukherjee, learned advocate representing the State respondents has placed reliance on a Government memorandum being 9008-F(P) dated 16th September, 2011 wherefrom it appears that embargo was imposed in engaging employees who were engaged in the manner laid down in the memo dated 20th May, 2009 and paid out of contingency and it was further reiterated in the said

memorandum dated 16th September, 2011 that on and from 1st April, 2010 no such engagement shall be made. It is also contended that petitioner was merely appointed as casual worker not against sanctioned vacancy therefore decision was taken by Artha, Sanstha, Unnayan-O-Parikalpana Sthayee Samity on 29th November, 2013 for disengagement of the petitioner and not to allow the petitioner to act as casual worker from March 2014 and accordingly monthly remuneration of the petitioner was stopped from the month of March 2014.

Having considered the submissions made on behalf of learned advocates representing the petitioner and the State respondents it appears that petitioner was appointed as casual worker on 1st August, 2011 by Sabhapati Gopiballavpur No.1, Panchayat Samity vide appointment letter dated 2nd August, 2011. In consideration of the memorandum dated 16th September, 2011 it appears that the Panchayat Samity was not authorised to appoint the petitioner on casual basis after 1st April, 2010 since an embargo was imposed by the Finance Department.

In the present case excepting a document has been annexed to the writ petition at page 36 that in the month of August 2014 petitioner attended the office no further documents are on record which would substantiate the claim of the petitioner that he worked after March 2014 based on appointment letter dated 2nd August, 2011. It is also not demonstrated before this Court that petitioner was appointed against sanctioned vacancy with effect from 1st August, 2011 in Gopiballavpur No.1,

Panchayat Samity. Moreover, from the documents placed before this Court on behalf of the State respondents it appears that a decision was taken by the Artha, Sanstha, Unnayan-O-Parikalpana Sthayee Samity on 29th November, 2013 to discontinue the petitioner and such decision dated 29th November, 2013 is not under challenge in the present writ petition.

In view of the aforesaid scenario it appears that no enforceable right is created in favour of the petitioner warranting issuance of mandamus in order to protect the service of the petitioner thereby directing the concerned respondent authorities to release the monthly remuneration from the month of March, 2014.

Accordingly, the writ petition stands dismissed.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)