

27.09.2023

Item No. 21

Ct. No. 7

PG

W.P.A. 27406 of 2014

Surendra Nath Saha.

Vs.

The State of West Bengal & Ors.

Mr. Shuvro Prokash Lahiri

Md. Habibur Rahaman

Mr. Rajesh Naskar.....for the petitioner

1. The petitioner has challenged the order of the Commissioner, Panchayats & Rural Development, West Bengal dated July 23, 2014, whereby the prayer of the petitioner for enhancement of wages/emoluments was rejected.
2. The petitioner claims to have been appointed as a Daily rated Casual Staff (Misc. office works) vide appointment letter dated February 13, 2009. The petitioner claims that since the date of joining service, he is sincerely and diligently discharging his duties. The petitioner filed a writ petition being W.P. No. 14743(W) of 2014, which was disposed of by an order dated May 14, 2014 by directing the respondent authorities to consider the case of the petitioner for enhancement of emoluments in terms of the memorandum dated May 20, 2013 issued by the Finance Department, Audit Branch, Government of West Bengal provided the petitioner is otherwise eligible and entitled to the same in law.

3. The Commissioner, Panchayats & Rural Development, Government of West Bengal being the 2nd respondent in this writ petition by an order dated July 23, 2014 rejected the prayer of the petitioner for enhancement of wages/emoluments on the ground that the petitioner at the time of hearing before the said authority agreed that his present emoluments is Rs. 7774/- per month.
4. Mr. Lahiri, learned advocate representing the writ petitioner submits that the petitioner has rendered more than 10 years of continuous service at the said post. He submits that in terms of the Memorandum No. 9008-F(P) dated September 16, 2011, a casual/daily rated worker who has rendered 10 years of service continuously with at least 240 days attendance each year, may be engaged in the same status and capacity till his attainment of the age of 60 years. By referring to the said memorandum, Mr. Lahiri submits that the petitioner should be allowed to continue in the said post till he attains the age of superannuation.
5. Mr. Lahiri further refers to the Memorandum No. 4011-F(P) dated May 20, 2013 issued by the Finance Department, Audit Branch, Government of West Bengal and submits that since the petitioner was engaged in Group-D category, he is entitled to wages/emoluments in terms of the said

memorandum dated May 20, 2013. Mr. Lahiri submits that the 2nd respondent while passing the impugned order, did not properly appreciate and consider the effect of the aforesaid memoranda.

6. None appears for the State at the time of hearing. No accommodation has also been sought for either.
7. After going through the order of the 2nd respondent dated July 23, 2014, this Court finds that the 2nd respondent took note of the report of the District Panchayats & Rural Development Officer, Uttar Dinajpur, which stated that the petitioner rendered a continuous service for a period of 04 years 01 month and 23 days as on April 1, 2013. The report of the said authority also stated that the emoluments of the petitioner at the relevant point of time was Rs. 7774/-. After taking into consideration the aforesaid facts, as indicated in the report of the District Panchayats & Rural Development Officer, Uttar Dinajpur, the 2nd respondent observed that the conditions laid down in G.O. No. 4011-F(P) dated May 20, 2013 read with G.O. No. 9008-F(P) dated September 16, 2011 are not satisfied. In the light of the aforesaid observations, the 2nd respondent rejected the claim of the petitioner for enhancement of wages/emoluments.

8. The said order of the 2nd respondent was based on the status report as on April 01, 2013. The office memorandum No. 4011-F(P) was issued by the Government of West Bengal, Finance Department, Audit Branch only on May 20, 2013. At the relevant point of time, i.e. at the time of passing of the order by the 2nd respondent, which is impugned in this writ petition, the petitioner rendered less than 10 years of service. Therefore, even by applying the memorandum dated May 20, 2013, the wages/ remuneration of the petitioner would be Rs. 7,000/- per month. However, it appears from the report of the District Panchayats & Rural Development Officer and Block Development Officer that the emoluments of the petitioner at the relevant point of time was Rs. 7774/-. i.e. more than the amount, which was admissible to a casual/daily rated worker in Group-D category having rendered less than 10 years of service.

9. Therefore, this Court is of the considered view that there is no infirmity in the order of the Commissioner dated July 23, 2014.

10. Since Mr. Lahiri, learned advocate for the petitioner submits that the petitioner is still rendering his service as a Daily rated Casual Staff (Misc. office works) under Nizampur-I Gram

Panchayat and taking note of the provisions laid down in the Memorandum No. 9008-F(P) dated September 16, 2011, wherein the casual/daily rated contractual workers, who have rendered 10 years of service continuously with at least 240 days attendance each year may remain engaged in the same status and capacity till they are attaining the age of 60 years, this Court grants liberty to the petitioner to make a detailed representation with regard to his claim for remaining engaged in the same status and capacity till his attaining the age of 60 years before the appropriate authority.

11. The petitioner will also be at liberty to make his claim for enhancement of emoluments as per the relevant memorandum.
12. Since the entitlement of the petitioner to remain engaged in the same status and capacity till his attaining the age of 60 years as well as claim for enhanced emoluments involves adjudication of facts, this Court is not inclined to pass any positive direction upon the authorities on such issues.
13. W.P.A. 27406 of 2014 is disposed of by giving liberty to the petitioner to make an appropriate representation before the Commissioner of Panchayats and Rural Development praying for appropriate reliefs in terms of the Memorandum

No. 9008-F(P) dated September 16, 2011 and any other memorandum that may be applicable to the case of the petitioner.

14.If any representation is submitted before the 2nd respondent, the said respondent shall consider such representation after giving an opportunity of hearing to the petitioner or his authorized representative and dispose of the same by passing a reasoned order as expeditiously as possible but positively within a period of four weeks from the date of submission of such representation along with a server copy of this order.

15.There shall be, however, no order as to costs.

16. Urgent Photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)