

05.
10.01.2023
S.D.

W.P.A. 28880 of 2022
Subrata Ghosh
Vs.
The State of West Bengal & Ors.

Mr. N.G. Mukherjee
Ms. Anindita Banerjee
... For the Petitioner
Mr. Kamalesh Bhattacharya, Sr. Adv.,
Mr. Aninda Bhattacharya
..For the WBSWC
Mr. Sudipto Panda
..For the State

The petitioner has been working since October 5, 2016 in the post of Godown-in-Charge/Superintendent of WareHouses with the West Bengal State Warehousing Corporation. The petitioner was engaged on contractual basis for a period of one year from his date of joining.

The said contractual employment was extended by the Secretary, WBSWC till October 24, 2020. Admittedly, show-cause notice was issued against the petitioner on July 16, 2018 for being initially absent during an inspection conducted by the Deputy Director (Procurement and Supplies) of the Food and Supplies Department. Upon reaching the site belatedly, the petitioner also entered into an argument with his superior officer using harsh language and in a raised voice.

The petitioner immediately responded to the said show-cause notice on July 19, 2018 and accepted that such a behaviour would not be repeated in future. The petitioner was also given a warning on August 14, 2018, by the Secretary of WBSWC. Thereafter, the petitioner's engagement was extended by Government Orders dated October 26, 2018 and also September 13, 2019. However, from October 24, 2020, the petitioner was not engaged any more. Several representations were given by the petitioner for considering his re-engagement. Thereafter, an application under Right to Information Act, 2005 was filed by the petitioner. By a reply dated July 27, 2022, it was informed to him that owing to unsatisfactory service, his contractual period was not extended.

Subsequently, the petitioner again made an application under the RTI Act on August 24, 2022 and the same was replied to on September 13, 2022. In the second reply, it was clearly stated that an earlier application under RTI Act was made on the selfsame matter and the questions which were asked by the petitioner were not within the frame/scope of the RTI Act. The appeal filed by the petitioner was also rejected on November 24, 2022 on the ground that the queries of the petitioner have already been answered.

Mr. Bhattacharya, learned senior counsel appearing on behalf of the respondents submits that the petitioner was a contractual employee who was engaged for a period of one year and it was well within the right of the employer not to extend such engagement. The employer was not required to give any explanation for not extending the term of the petitioner. However, under the RTI Act, the petitioner has already been informed that engagement has not been extended due to unsatisfactory service.

He further draws the attention of this Court to the representation of the petitioner dated October 17, 2022 whereby the petitioner has admitted that he has been under the influence of Alcohol during the office hours for the purpose of releasing his tension. He submits that the petitioner is completely unfit for the said job admittedly indulging in consumption of Alcohol during the office hours.

Mr. Mukherjee, learned counsel appearing on behalf of the petitioner submits that since the petitioner's engagement has been extended even after the issuance of the warning in 2018, the same should be renewed.

Having considered the rival submission of the parties and the materials placed on record, this Court finds that justice will be sub-served in the event the petitioner is given

an opportunity to make a fresh representation before the authorities concerned and if such a representation is made within four weeks from date, the same shall be considered by the Secretary, WBSWC within eight weeks from date.

Since no affidavits have been directed to be exchanged by the parties, all the allegations contained in the present writ petition are deemed not to have been admitted by the parties.

With the directions aforesaid, **W.P.A. 28880 of 2022** is **disposed of**.

Needless to mention that the representation dated October 17, 2022 will be taken into consideration while disposing of the representation of the petitioner, if the same is filed within four weeks.

The reasoned order shall be communicated to the petitioner within two weeks of passing thereof.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)

