

21.08.2023
Item No.40
Ct. No.5
CHC
(dismissed)

WP.ST 456 of 2012

Swapan Kumar Mondal
Vs.
The State of West Bengal & ors.

Mr. Satadal Chatterjee,
Mr. Nemai Chandra Betal,
Mr. Suresh Kumar Sahoo
...for the writ petitioner

The writ petition is directed against an order dated October 11, 2012 passed by the West Bengal Administrative Tribunal in O.A.972 of 2012.

By the impugned order, the Tribunal refused to direct consideration of the period of service of the writ petitioner rendered as temporary employee prior to him being granted permanent employment for the purpose of consideration of the qualifying service for pensionary benefits.

Learned advocate appearing for the writ petitioner submits that, the writ petitioner was appointed to the post of driver by a writing dated June 29, 2007. The writ petitioner was working as a temporary driver since 1992. The writ petitioner filed a writ petition against the illegality with regard to the appointment of a Driver and denying the writ petitioner such appointment. Such writ petition was transferred to the Tribunal. The transferred writ

petition was disposed of by the Tribunal by an order dated December 15, 2006. He refers to the directions contained in the order dated December 15, 2006 of the Tribunal. He submits that, the respondents were obliged to consider the service rendered by the writ petitioner prior to the permanent appointment for the purpose of pensionary benefits.

Learned advocate appearing for the writ petitioner refers to the rules of the State which permits the State to condone the deficiency in the qualifying service period.

None appears for the State.

We find that, the Tribunal, directed the State to accommodate the writ petitioner in any future vacancy for the post of Driver or to consider the writ petitioner for his appointment as Driver in case of any future vacancy that may occur by the order dated December 15, 2006.

Any appointment by the State, must necessarily be through a valid selection process.

In the present case, we are yet to find a selection process for the purpose of appointing the writ petitioner by the writing dated June 29, 2007.

The writing dated June 29, 2007 which purports to appoint the writ petitioner as a Driver refers to the order of the Tribunal dated December 15, 2006.

The order of the Tribunal dated December 15, 2006 does not speak of or cannot be construed to mean that, it obviated the necessity of the selection process. At best it relaxed the quantification criteria for any selection process to the post of Driver undertaken subsequent to the order of the Tribunal, in the department at which the petitioner was working as a temporary driver. In any event, the writ petitioner is not entitled to the consideration of his past employment firstly, his appointment on June 29, 2007 is not on strong legal foundation and secondly, previous services of the writ petitioner is not established.

In such circumstances, we find no merit in the present writ petition.

WP.ST 456 of 2012 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)