

16.08.2023
Item No.5
Court No.550
Saswata

W.P.A. 10162 of 2020
with
CAN 1 of 2023
Julien Day School
-vs-
Sanjoy Nayak & Ors.

Mr. Soumya majumder
Mr. Tarak Dutta
Mr. Ravi Kumar Dubey

...For the petitioner

Mr. Balaram Patra
Mr. Suvodip Bhattacharjee

...For the respondent no. 1

1. The present writ application has been filed, inter alia, challenging the award dated 25th October 2019, whereby the application under Section 33A of the Industrial Disputes Act, 1947 (hereinafter referred to as the “said Act”) filed by the respondent no.1, was allowed on contest, thereby holding that the order of transfer of the respondent no.1 dated 28th March 2011 is illegal, invalid, inoperative and unjustified in the eye of Law. Further direction was issued to disburse the backwages and salary and other normal benefits to the respondent no. 1 immediately. The school authority was also directed to allow the respondent no. 1 to join his duties immediately without any further delay.
2. In course of hearing of the present writ application, Mr. Majumder, learned advocate appearing for the petitioner had submitted on instruction that his client is ready and willing to accommodate the

respondent no. 1 in Julien Day School at Ganganagar, since there is no vacancy at the Julien Day School, at Kolkata.

3. The matter was since adjourned to enable the learned advocate for the respondent no. 1 to take instructions in this matter. Subsequently, on 9th August 2023, the learned advocate appearing for the respondent no. 1, on instruction had submitted that his client is ready and willing to join the post of sweeper in terms of the offer made by the petitioner, subject to payment of backwages.
4. Today, Mr. Majumder, learned advocate appearing for the petitioner, on instruction submits that the school authority is ready and willing to make payment of backwages to the respondent no. 1, provided the respondent no. 1 joins the Julien Day School at Ganganagar within a period of fortnight from date.
5. Having regard to the aforesaid and since, Mr. Bhattacharya, learned advocate appearing for the respondent no. 1 has agreed to the aforesaid proposal, let the instant writ application and the connected application be disposed of by granting liberty to the respondent no. 1 to join the post of sweeper in Julien Day School at Ganganagar within a period of fortnight from date.

6. In the event, the respondent no. 1 reports for duty in the Julien Day School at Ganganagar, within a period of fortnight from date, the petitioner shall permit the respondent no. 1 to join such post, by issuing formal orders, and shall disburse the backwages payable to the respondent no. 1 within a period of three months from such date.
7. The aforesaid backwages shall be paid with effect from 28th March, 2011, till the date of joining in three equal monthly installments.
8. The respondent no. 1 shall be entitled to all benefits as are payable to a sweeper.
9. With the aforesaid directions and observations, the impugned award/order dated 25th October, 2019 passed by the learned Fifth Industrial Tribunal stands modified. The instant writ application being **WPA 10162 of 2020** and its connected application being **CAN 1 of 2023** are accordingly ***disposed of***.
10. All parties to act on the server copy of this order duly downloaded from this Hon'ble Court's official website, without insisting for a certified copy thereof.

(Raja Basu Chowdhury, J.)