

ORDER SHEET

IA No.GA 1 of 2022
In
WPO 4 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MD. JAMAL AHMAD
VS.
WEST BENGAL TRANSPORT CORPORATION LIMITED & ORS.

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date: 21st April, 2023.

Mr. Debductta Basu, Advocate for the petitioner.

Mr. Niladri Bhattacharjee, Ms. Deblina Chattaraj, Ms.
Angana Dutta, Ms. Sristi Paul, Advocates for WBTCL.

The Court : The petitioner has prayed for setting aside and/or cancellation of an order dated August 5, 2019 (Impugned Order) passed by the Managing Director, West Bengal Transport Corporation Limited (WBTCL) in the present writ petition. The petitioner's prayer for regularisation was considered pursuant to an order passed by a Co-ordinate Bench of this Hon'ble Court dated June 19, 2019. By the Impugned Order the Managing Director rejected the prayer for regularisation on four grounds :-

- i) The performance reports/Annual Confidential Reports of the petitioner were not satisfactory.
- ii) The employees who have been regularised in service were appointed in 2010-2011 whereas the petitioner was appointed in 2014.
- iii) The petitioner was appointed on contractual basis pursuant to an order passed by an Hon'ble Co-ordinate Bench in W.P. 1036

(W) of 2013.

- iv) Due to financial crisis any regularisation would be subject to approval of the State Government.

By an order dated January 20, 2014 passed in W.P.1036 (W) of 2013 the Hon'ble Co-ordinate Bench directed WBTCL to make an offer to the petitioner on contractual basis for a temporary period of time. In the event, the petitioner acceded to such offer, the appointment of the petitioner was required to be given within four weeks of the petitioner's acceptance of such offer.

Mr. Basu, learned Counsel appearing on behalf of the petitioner submits that the primary ground for rejection of the prayer for regularisation was the performance reports/Annual Confidential Reports of the petitioner. However, his Confidential Reports were not in any way graded lower than that of one Nitish Anand and one Raj Hela. Since those employees were contractual conductors and were regularised, the petitioner could not be discriminated against.

Ms. Chattaraj, learned Counsel appearing on behalf of WBTCL submits that the petitioner was contractually appointed pursuant to an order dated January 20, 2014. The offer was on contractual basis, for a temporary period of time. Therefore, the petitioner cannot claim regularisation as the petitioner waived his right.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the petitioner was appointed on contractual basis pursuant to an order dated January 20, 2014. Since the petitioner accepted the offer of WBTCL [formerly known as Calcutta Tramways Company (1978) Limited] on contractual basis, the petitioner was

given appointment on priority basis. Furthermore, no employee has been regularised whose dates of joining were after 2010-2011. Therefore, the petitioner cannot complain that he has been discriminated against one Nitish Anand and one Raj Hela.

Assuming that the said two employees have been regularised wrongly without the approval of the State Government, the petitioner cannot be permitted to pray for such extension of a wrongful act for the purpose of regularisation of the petitioner's employment.

The petitioner's Annual Confidential Reports were also not found to be satisfactory by the employer.

This Court does not find anything perverse or arbitrary or capricious in the decision making process of the impugned order dated August 5, 2019.

The writ petition being **WPO 4 of 2021** is **dismissed** without any order as to costs.

Accordingly, **GA 1 of 2022** praying for regularisation of the petitioner is also **dismissed**.

All parties are to act on server copy of this order as downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(LAPITA BANERJI, J.)