

D/L.22.
March 7, 2024.
MNS.

WPA No. 2257 of 2024

Jishnu Biswas
Vs.
The State of West Bengal and others

Mr. Mrinal Kanti Sardar,
Mr. Dutiman Banerjee,
Ms. Aparna Mondal

... for the petitioner.

Mr. Biswabrata Basu Mallick,
Ms. Mrinalini Majumdar

...for the State.

1. Affidavit-of-service filed in Court today be kept on record.
2. The petitioner contends that the petitioner sought for information regarding his contractual employment. According to the petitioner, there was a recommendation by the concerned Minister at the relevant point of time for absorbing the petitioner as a permanent employee.
3. In such context, a writ petition was previously moved, where a direction was passed by a co-ordinate Bench directing the State Public Information Officer (SPIO) and Deputy Director of Social Welfare Department, Government of West Bengal to furnish the information applied for, within a period of one week from that date. Subsequently, it was

found out that the file had been misplaced, which was disclosed in the information dated August 17, 2022, supplied to the petitioner, which is annexed at page 97 of the writ petition.

4. Upon the petitioner further moving the writ court, a direction was given on April 21, 2023, by the writ court that the file, bearing Memo No. 558/SWD(O) dated December 27, 2005, shall be reconstructed. When the file was reconstructed, the petitioner found that the same contained merely the documents, copies of which had been handed over by the petitioner and not the relevant documents, in particular the recommendation of the concerned Minister at the relevant point of time for absorption of the petitioner as a regular employee. Hence, learned counsel for the petitioner seeks a direction on the respondent authorities to produce such document.
5. Learned counsel for the respondent authorities submits that there was no scope under the law or extant regulations for recommendation by the Minister for absorption of the petitioner as a regular employee, since the premise of the petitioner's employment was contractual.

6. Learned counsel for the respondent authorities also places reliance on the communication dated August 9, 2023 to the petitioner, where by a reasoned order, the petitioner's application had been decided. In paragraph no. 1 of the same, it is categorically stated on the basis of the available documents that the petitioner worked as daily rated worker and all the time he was engaged with a condition that he would have no claim in future of absorption in any establishment under the State Government.
7. Moreover, learned counsel appearing for the respondent authorities contends that an order was passed on January 8, 2020 by the West Bengal Administrative Tribunal, which has also been annexed at page 130 of the writ petition, where the same prayers were made by the petitioner, including a direction on the authorities to produce the file-in-question.
8. In prayer (ii), the petitioner had also claimed before the Tribunal for a direction to the Director, Social Welfare Department, Government of West Bengal, Juvenile Court Building, to produce the purported recommendation given by the Hon'ble Minister, Social Welfare Department, Government of West Bengal by its letter

bearing Memo No. 504/MIC/JW/dt. 05.08.2005 to the Director of Social Welfare. It was recorded in the order, *inter alia*, that the engagement of the petitioner was conditional and as the petitioner was not allowed to claim absorption in future in any regular establishment under the State Government as he had worked for 103 days in 1994 and 1995. As the applicant could not establish his legal right, no order could be passed on the application.

9. In view of such dismissal, which has attained finality, it is argued that the present prayer of the petitioner on similar footing ought to be rejected.
10. Learned counsel for the petitioner reiterates that the petitioner is not, at present, claiming a right of absorption or associated benefits, but is seeking the relevant document on the basis of which the petitioner can stake such claim.
11. It is submitted that the respondent authorities only reconstructed the file with the documents which were handed over by the petitioner and no further document. Particularly, the recommendation of the Hon'ble Minister is required to be placed before this Court.
12. It is seen from the records that as per direction of the co-ordinate Bench, the file has

been reconstructed and the grievance of the petitioner has been decided finally by the SPIO.

13. Moreover, a similar claim of the petitioner, including a direction for production of the purported recommendation of the Minister, has also been dismissed on January 8, 2020 by the West Bengal Administrative Tribunal. Hence, the respondents are justified in arguing that the petitioner cannot be permitted to raise the self-same claim afresh.

14. In any event, since there is nothing on record to substantiate the claim of the petitioner that there was any recommendation of a Minister at any point of time, it cannot be said that the petitioner has a legal right for the respondent authorities to produce such document.

15. In such view of the matter, no relief can be granted within the confines of the present writ petition.

16. Accordingly, WPA No. 2257 of 2024 is dismissed on contest.

17. There will be no order as to costs.

18. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)