

13.06.2024
Sl. No.4.
BP
Ct.No.23.

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 6068 of 2024

Bishwajyoti Roy
Vs.
Bangiya Gramin Bikash Bank & Ors.

Mr. Siddhartha Sankar Mondal
Mr. Tirtha Pati Acharyya
Mr. Arijit Majumdar
..for the petitioner

Mr. Baidurya Ghosal
Mr. Saikat Mukherjee
Mr. Sourav Mukherjee
..for the respondent nos. 1 to 5

The petitioner while working as Assistant Manager-Grade-I in Bangiya Gramin Bikash Bank, the respondent no.1 opted for voluntary retirement in view of his physical ailment. The prayer was rejected. As a consequence whereof the petitioner filed a writ petition being WPA 935 of 2022. The said writ petition was disposed of by an order dated 16th February, 2022 by directing the General Manager (HR), Bangiya Gramin Bikash Bank to consider the petitioner's prayer for voluntary retirement afresh by affording the petitioner an opportunity to produce the medical documents and certificates in support of his ailment. On the request of the said bank a medical board was constituted by Murshidabad Medical College & Hospital, Berhampore

with some specialists. On 22nd June, 2022 the said Medical Board further directed the petitioner to undergo diagnostic psychometry by clinical psychologist of Berhampore Mental Hospital/Institute of Psychology or any other Government Institute with above facility.

The petitioner filed a contempt application alleging violation of the order dated 16th February, 2022. The contempt application was disposed of granting petitioner to assail the action of the bank complained of by filing an appropriate proceeding as a reasoned order had been passed on 14th July, 2022.

The petitioner thereafter again approached this Court by filing another writ petition being WPA 17148 of 2022. This writ petition was disposed of by the following direction:

13. In the event, the petitioner complies with the recommendations made by the Medical Board dated 22nd June, 2022 within a period of four weeks from date and approaches the General Manager (HR), Bangiya Gramin Vikash Bank, being the 3rd respondent herein stating about such compliance being made, the 3rd respondent/General Manager (HR), Bangiya Gramin Vikash Bank shall fix a date for further medical examination of the petitioner upon consultation with the Medical Board and intimate such date to the petitioner and shall also request the Medical Board to give its final opinion within a reasonable time. After the Medical Board gives its final opinion, the 3rd respondent/General Manager (HR), Bangiya Gramin Vikash Bank shall revisit the order dated 14th July, 2022 by passing a reasoned order after taking into consideration relevant documents, medical reports, opinion of the Medical Board as expeditiously as possible but preferably within a period of four weeks from the receipt of the final opinion of the Medical Board and communicate the reasoned order to the petitioner immediately thereafter.

The petitioner in compliance with the order dated 16th May, 2023 approached the Medical College and Hospital, Kolkata on 9th June, 2023 and ultimately on 10th November, 2023 a psychometric report was issued by the Clinical Psychologist Department of Psychiatry, Medical College and Hospital, Kolkata. The petitioner says that the said report has been obtained in terms of the observations made by the Medical Board of Berhampore Medical College vide report dated 22nd June, 2022. The petitioner has also complied with the direction given in the order dated 16th May, 2023 as within four weeks from the date of the said order, the petitioner had approached the Medical College and Hospital, Kolkata. It is the case of the petitioner that the bank has maintained stoic silence after being served with a copy of the psychometric report dated 10th November, 2023.

It is submitted by the bank that the petitioner did not comply with the recommendation made by the Medical Board vide its reported dated 22nd June, 2022 and also did not comply with the direction given in the order dated 16th May, 2023.

After hearing the parties and considering the materials on record, I find that the petitioner had approached the Medical College and Hospital, Kolkata which is a Government hospital with required facility as

indicated in the report of the Medical Board dated 22nd June, 2022 on 9th June, 2023. The petitioner, therefor, also approached the Medical College and Hospital, Kolkata within four weeks from the date of the order dated 16th May, 2023 and as such has complied with the direction given in the said order. After having approached the Medical College and Hospital, Kolkata, within four weeks from 16th May, 2023 the petitioner had no control over the said hospital for the psychometric report which has been ultimately issued on 10th November, 2023. It cannot, therefor, be said that the petitioner did not comply with the directions given by the Medical Board vide its report dated 22nd June, 2022 or the directions given in the order dated 16th May, 2023.

In the aforesaid facts and circumstance, I direct the respondent no.1 (Bank) through the respondent no.3 to approach the Medical Superintendent, Murshidabad Medical College and Hospital, Berhampore for constituting a further Medical Board comprising of the Doctors those who were the part of the Medical Board that had issued report dated 22nd June, 2022, if such Doctors are available in the said Medical College along with a specialist clinical psychiatrist. In the absence of the doctors who constituted the previous board, the Medical Superintendent, Berhampore Medical College

shall be free to constitute a Medical Board with requisite number of specialists who can examine the petitioner regarding the ailment complained of taking into note of the previous medical reports as also the psychometric report dated 10th November, 2023. The Medical Board shall submit a report which shall clearly indicate therein whether the petitioner can perform the regular functions of the respondent no.1 (Bank) in the capacity of Assistant Manager-Grade-I) with his present ailments. The report is to be submitted to the respondent no.3, who in turn shall consider the same and act in accordance therewith with regard to the petitioner's prayer for voluntary retirement.

The bank shall approach the Medical Superintendent, Murshidabad College and Hospital, Berhampore within 28th June, 2024. The Medical Superintendent, Murshidabad College and Hospital, Berhampore on being approached by the respondent bank within the time frame provided shall constitute the Medical Board at the earliest but not beyond six weeks from the date of the request. The Medical Board shall examine the petitioner and give the final report within four months from the date of examining the petitioner in terms of this order. The respondent bank through respondent no.3 shall take the decision and communicate the same to the petitioner within six weeks

from the date of receipt of the final report from the Medical Board to be constituted as directed in this order.

The petitioner and the respondent-bank shall render all cooperation to the Medical Board that may be constituted.

Nothing further remains to be adjudicated. The writ petition is accordingly disposed of.

Since I have not called for affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)