

MAT 465 of 2022
with
IA No. CAN 1 of 2022
(Bidhan Chandra Pal & Ors. Vs. The State of
West Bengal & Ors.)

Mr. Subir Sanyal
Mr. Sagnik Roy Chowdhury
Mr. Surojit Mukherjee
..... For the appellants

Mr. Sourav Choudhuri
Ms. Sukla Das Chandra
..... For the respondents

The present appeal has been preferred challenging an order dated 15th February, 2022 passed in a writ petition being WPA 407 of 2022. By the said order, the appellants' prayer for interim order was refused.

Mr. Sanyal, learned advocate appearing for the appellants submits that by the order impugned in the writ petition, the appellants' engagement for the entire month was reduced to only 14 days. Subsequent thereto, in spite of repeated representations the respondents did not even allow the appellants to continue for 14 days in a month.

According to Mr. Sanyal, the writ petition was filed praying for several reliefs including a prayer for allowing the appellants to continue till attainment of the retirement age of 60 years as per government circulars and after admitting the writ petition, the learned Court ought to have directed the respondents to allow the

respondents to allow the appellants to discharge services for 14 days a month, as per the existing guidelines. Such interim relief was refused without any reason and without appreciating that such discontinuance was severely affecting the livelihood of the appellants. Such issues, as urged, were glossed over by the learned Single Judge and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Sanyal further submits that in the affidavit-in-opposition used in the present appeal, the respondents did not make any specific averment that the appellants' service even for 14 days is not required at this juncture. In the said conspectus, the respondents cannot deny engagement of the appellants for 14 days.

Per contra, Mr. Chaudhuri, learned advocate appearing for the respondents submits that after the issuance of the order impugned in the writ petition dated 21st July, 2021, the appellants did not approach the authorities to allow them to work for 14 days every month, instead, it was their claim that their initial appointment for 30 days per month should be continued. The issue as to whether the appellants can avail the benefits as provided to other contractual employees in the other Departments of the Government is a matter to be decided in the main writ petition and as directed by the learned Single Judge, an affidavit-in-opposition has already been prepared on behalf of the respondents.

Mr. Sanyal, however, submits that no copy of such affidavit-in-opposition has yet been handed over to the appellants.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The issue as to whether there is any requirement for the respondents to engage the appellants at this stage for 14 days including the issue as regards sustainability of the order dated 21st July, 2021, need to be finally adjudicated and as such the learned Single Judge had called for affidavits with liberty to mention the matter for enlistment for final hearing after expiry of fifteen weeks.

Records further reveal that when the present appeal came up for hearing before a coordinate Bench of this Court on 22nd August, 2022, the appellants' prayer for interim order was considered and it was observed, *inter alia*, that '*the appellants/the writ petitioners are unable to persuade this Court at this stage on the requirement of an interim order*'.

Mr. Sanyal submits that the said order was passed at the motion stage and there had been a change in circumstances thereafter. Such argument of Mr. Sanyal is, however, not acceptable to this Court.

Accordingly, the appellants' prayer for interim order, is refused and the appeal and the connected application are dismissed.

Mr. Chaudhuri hands over a copy of the affidavit-in-opposition used by the respondents in the writ petition to the learned advocate-on-record of the appellants in Court today. The appellants would be at liberty to use their affidavit-in-reply to the same within two weeks from date.

The learned Single Judge is requested to dispose of the main writ petition as expeditiously as possible without granting any unnecessary adjournments to either of the parties and without being influenced by the observations made in this order.

There shall, however, be no order as to costs.

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

(V. M. Velumani, J.)

(Tapabrata Chakraborty, J.)