

04.12.2024
Item No.34
Court No.11
Avijit Mitra
ML

MAT 458 of 2024

Md. Sahiddulah
- Versus -

**The Executive Director, West Bengal Health &
Family Welfare Samity and Mission Director & ors.**

Mr. Md. Nauroz Rahber,
Mr. Muhammad Jawwad,
Mr. Faiz Lodi

...For the appellant

The present appeal has been preferred challenging an order dated 16th November, 2023 passed by the learned Single Judge in the writ petition being WPA 20902 of 2023. By the said order, the writ petition was disposed of observing *inter alia* that in view of the notification dated 9th October, 2020, the writ petitioner/appellant herein is not entitled to claim any additional remuneration for the temporary assignments given to him.

The case of the appellant/writ petitioner, namely, Md. Sahidullah (in short, Sahidullah) is that he was engaged on contractual basis as a Programme Associate (RBSK) in the office of the Chief Medical Officer of Health (in short, CMOH) at Malda and such service was renewed from time to time on satisfactory performance. By a memo dated 6th January, 2016, the appellant was directed to take over the charges (in addition) of the District Programme Supervisor (RBSK) as the said officer had resigned on 28th December, 2015. Thereafter on the basis of a memo dated 7th February, 2012, Sahidullah was paid 20% of the initial remuneration of the additional assigned post towards

additional remuneration for discharging additional task. Such additional remuneration was, however, discontinued since January, 2021 in view of a memo dated 9th October, 2020. Aggrieved thereby, Sahidullah submitted a representation and as the same was not considered, he was constrained to approach this Court by filing a writ petition being WPA 6872 of 2022 which was disposed of by an order dated 15th May, 2023 directing the competent authority to consider Sahidullah's representation. Pursuant to such direction, an order was passed on 20th July, 2023 by the respondent no.1. Aggrieved by the same, Sahidullah preferred a fresh writ petition being WPA 20902 of 2023. The order passed in the same has been impugned in the present appeal.

Mr. Rahber, learned advocate appearing for Sahidullah submits that even after extracting additional work from Sahidullah, the respondents illegally denied to compensate him by paying additional remuneration. The post of District Programme Supervisor (RBSK), Malda is presently vacant and Sahidullah's service in the said post is still a necessity. Such argument, as advanced, was glossed over by the learned Single Judge and no finding was returned on the same.

Drawing our attention to the documents annexed at pages 53 to 61 and 77 of the paper book, Mr. Rahber submits that persons similarly situated with the appellant are being granted additional remuneration but the appellant had been denied. Such discrimination as practiced by the respondents ought to have been interfered with by the learned Single Judge.

We have heard Mr. Rahber, learned advocate appearing for Sahidullah and considered the materials on record.

The argument of Mr. Rahber that the respondents had illegally discontinued the additional remuneration was rightly discounted by the learned Single Judge in view of the circular dated 9th October, 2020 wherein it was categorically stated that those *‘incumbents who are presently getting additional remuneration for holding additional charge against a vacant post (provided such additional charge has been assigned before 1st July, 2020) will receive the same till December, 2020 only, after which the entitlement will be discontinued’*.

However, while refusing such prayer, the learned Single Judge categorically observed that *‘State shall bear in mind that additional work normally involves additional payment’*. It was further observed that *‘let a suitable decision be taken by the State in this regard’*.

In the said conspectus, we are not inclined to interfere with the order impugned and the appeal as well as connected application, if any, is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Sen, J.) (Tapabrata Chakraborty, J.)