

29.07.2024
Item No. 22
Ct. No.26
PG

M.A.T. 467 of 2024
With
I.A. No. CAN 1 of 2024
With
I.A. No. CAN 2 of 2024
Jagannath Mahata.
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee, Adv.
Mr. Badrul Karim
Mr. Sarajit RoyFor the appellant

Mr. Somnath Ganguli, Ld. AGP
Mr. Manas Kr. Sadhu, Adv.For the State

In Re: I.A. No. CAN 1 of 2024

1. The department reports delay of 117 days in preferring the appeal. For the ends of justice, causes shown in the application are accepted as sufficient and the delay in making and filing the appeal is condoned.
2. I.A. No. CAN 1 of 2024 is disposed of accordingly.

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3. By consent of the parties, the appeal is taken up for final hearing.
4. The appeal is at the behest of the writ petitioner.
5. By the impugned order, writ petition of the appellant was dismissed.
6. In the writ petition, the appellant, had sought regularisation of his service as well as continuation of his service.
7. Learned advocate appearing for the appellant submits that, appellant is no longer pressing the prayer for

absorption or regularisation. Appellant is now seeking to be allowed to work in the post as a daily rated worker. In support of the entitlement of the appellant to work in such post, reliance is placed on memo dated February 25, 2016 issued by the Finance Department.

8. State is represented.
9. Materials made available on record establishes that the appellant was engaged as a daily rated worker in the office of the Sub-Divisional Officer, Jhargram (Sadar). Appellant was discharging the duty of a Receiving Clerk. Wages payable to the appellant was disbursed from time to time from different available contingency funds of the district. Appellant was not engaged against any permanent vacancy or sanctioned post. No selection process was undertaken for the purpose of appointing the appellant.
10. Claim of permanency in the service is based on the memorandum dated February 25, 2016 issued by the Finance Department.
11. The memo dated February 25, 2016 is in continuation with the Finance Department memo no. 9008-F(P) dated September 16, 2011. The memo dated September 16, 2011 required a contractual employee to be in engagement for a period in excess of 10 years. Such memo *inter alia*, provides in clause x) thereof, as follows:

“x) The provisions of this Order will not be applicable where contractual engagement has been made without any sanctioned post and for any specific project for a very temporary period up to a maximum 6(six) years or finishing up the project whichever is earlier. Thus in such cases steps will not be required to be initiated for filling up the posts through regular appointments as per the Recruitment Rules, since the posts are temporary by nature.”

12. Appellant before us is not entitled to the benefit of the memo dated September 16, 2011 read with the memo dated February 25, 2016 since the appellant falls under clause x) of the memorandum dated September 16, 2011. In other words, the appellant was not appointed against any sanctioned post.
13. In such circumstances, we find no material in the present appeal.
14. M.A.T. 467 of 2024 along with connected application (I.A. No. CAN 2 of 2024) are dismissed without however, any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)