

15.04.2024
Item No. 7
Crt.No.22
b.r.

WPA 8686 of 2024

Md. Asrar & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Sarwar Jahan
Mr. Ashraful Haq
..... for the petitioners.

Mr. Bhaskar Prasad Vaisya, Ld. AGP
Mr. Gourav Das
.... For the State.

Affidavit of service filed in Court today, is taken on record.

Mr. Sarwar Jahan, learned counsel, appears for the petitioners.

Subject to the payment of Court Fees in accordance with law since there are to writ petitioners, this order shall be effected.

The petitioner no.1 claimed to be working as **Clerk** and the second petitioner claimed to be working as **Peon (Group-D)** at the relevant **Madrasah Siksha Kendra (M.S.K.)**. On the basis of the **DLIT** report dated **August 31, 2008, annexure p-5 at page-27** to the writ petition, the relevant M.S.K. was approved on **February 17, 2009, annexure p-6 at page-31** to the writ petition. The petitioners then claimed their approval at their respective posts and on **March 1, 2011** such approval

was refused due to the short fall of minimum age from the date of approval of the M.S.K., **annexure p-8** at **page-37** to the writ petition.

Drawing attention to a Government Memo dated **September 11, 2017, annexure p-10 at page-40** to the writ petition, Mr. Sarwar Jahan, learned counsel appearing for the petitioners submits that subsequently with the issuance of the said Government Memo a provision for age relaxation was introduced for the benefit of the staffs of the M.S.K. who were working regularly since long.

Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader along with Mr. Gourav Das, learned State counsel appear for respondent nos. 1 to 4.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, this Court is of the view that these are the benevolent State policy adapted by the State to support the staffs both teaching and non-teaching working at M.S.K.. A benevolent policy of the State has to be read, construed and understood to give benefit thereof in favour of the beneficiaries thereunder, of course in the framework of law and following the established procedure of law.

In view of the above discussions and reasons and to sub-serve justice, the **Secretary, Minority Affairs**

and Madrasah Department, State of West Bengal upon giving a prior hearing notice of at least **seven days** to the petitioners and the respondent nos. 7 and 8 and after giving them an opportunity of hearing shall decide the issue in the light of the said **Government Memo** dated **September 11, 2017, annexure p-10 at page-40** to the writ petition by passing a reasoned order.

The concerned Secretary shall carry out and complete the entire exercise as directed above positively within a period of **six weeks** from the date of communication of this order. The concerned Secretary then shall communicate the reasoned order to the petitioners and the respondents nos. 7 and 8 positively within a further period of **two weeks** from the date of the said reasoned order to be passed. The respondent nos. 7 and 8 shall produce all the documents and records, if required in original, before the concerned Secretary in course of the hearing.

It is made clear that this Court has not gone into the merits of the claim of the petitioners in any manner and the petitioners and the respondent nos. 7 and 8 shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the concerned Secretary.

In the event, the reasoned decision goes in favour of the petitioners all necessary consequential steps

shall be taken to give effect thereto by the **respondents nos.2 and 4** positively within a period of **three weeks** from the date communication of the said reasoned order.

It is also made clear that this order shall not create right or equity in favour of the petitioners, if the petitioners are not eligible to receive their claim strictly in accordance with law.

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

On the above terms, this writ petition, **WPA 8686 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)