

06.12.2024.
PB
Sl. No.86.
Ct. No.25.

WPA 12416 of 2021

Abhik Chatterjee
Vs.
The State of West Bengal & Ors.

Mr. Abhimanyu Banerjee,
Mr. Anirban Basak.
.....for the petitioner.

In this case, the writ petitioner is aggrieved that without following the due procedure under the law, he has been ousted from the school premises and his service therein, has been discontinued. He prays for adequate relief by filing the present writ petition.

No one is appearing for the State respondent, in spite of service of notice.

The affidavit of service filed in Court today is taken on record.

Hence the matter is being taken up for adjudication in absence of the respondent authority.

Let the factual background of the case be narrated in a nutshell.

The petitioner was appointed in the respondent school, which is a recognized school without government aid, by dint of the appointment letter dated January 20, 2012. The writ petitioner was

appointed in the post of an Assistant Teacher (Mathematics). He has been entitled to the pay scale as prescribed under ROPA, 1998.

From the date of appointment, the writ petitioner has continuously and uninterruptedly worked in the said school till October, 2017, when allegedly, the writ petitioner has been ousted from the school premises by the school authority by employing force against him. Allegedly also since thereafter, he has not been allowed to enter into the school premises to discharge his duties. He has also not been paid any salary since thereafter.

According to the learned advocate for the petitioner, the extreme state of ousting the writ petitioner from the school premises and not allowing him to join in the school w.e.f. January 21, 2020 is an outrageous and illegal action on the part of the respondent authority. He would further say that depriving the writ petitioner from his legitimate claim of pay as an Assistant Teacher of the said school is also disputable being an illegal action on the part of the respondent school.

During argument, he would refer to the Clauses 10 and 11 of the letter of recognition issued to the school dated December 26, 2013. He submits that as per the prevalent rules, the school authority would be duty bound to afford opportunity of hearing to the

petitioner as well as observe due disciplinary proceeding before termination of his service.

It is submitted that the action on the part of the respondent school as described above, tantamounts to termination of service of the petitioner which has been done without due observance of the governing rules and regulations, as well as the principles of natural justice. Hence, he would seek that mandatory direction be passed against the respondent to immediately allow the petitioner to join in the said school and regularize his salary.

The Court finds force in the submission of the learned advocate for the petitioner that he could not have been severed from the service, without following the due procedure under the law and the process of disciplinary proceeding allowing him equal opportunity to defend himself. An approved permanent teacher is subject to the rules and in his case the school authority is also duty bound to act in accordance therewith, in case of discipline and termination of his service. No doubt, not allowing the petitioner to discharge his duties in the school and his salary, amounts to termination of his service. Hence, the same is without following the due procedure under the law. In absence of the same, the alleged action by the school authority appears to be arbitrary, unreasonable and not in conformity with the settled principles of law.

In such circumstances, the Court finds it proper to pass directions in the present case that the respondent school i.e. respondent nos.8 to 10 shall immediately allow the petitioner to join in duties in the said school as a regular Assistant Teacher in terms of this letter of appointment dated January 20, 2012.

The school is also directed to allow applicable salary to the writ petitioner upon his joining along with the arrear pay during the time of his absence in the said school, as his absence in the said school would be under force and compulsion and not his voluntary action.

With the directions as above, the writ petition is disposed of.

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

(Rai Chattopadhyay, J.)