

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Tapabrata Chakraborty
&
The Hon'ble Justice Partha Sarathi Chatterjee

WP.CT 52 of 2022

Tapan Kumar Mahapatra
Versus
Union of India & Ors.

For the Petitioner : Mr. Sagar Bandhopadhyay,
Mr. Kaustav Maiti.

For the Union of India : Mr. Sukumar Bhattacharya.

Hearing is concluded on : 13th August, 2024

Judgment On : 25th September, 2024

Partha Sarathi Chatterjee, J.

Prelude:

1. Under assail in the present writ petition is an order dated May 2, 2022 passed by the learned Tribunal in OA 1206 of 2019. In that order, the Tribunal determined that the petitioner was not eligible for a position with a grade pay of Rs. 7600/- as recommended by the 6th Pay Commission.

Furthermore, the Tribunal rejected the petitioner's request to count his previous service as a casual employee at ERNET India as qualifying service.

Key Facts:

2. Prior to venturing to decide the contentious issues, it is essential to review the relevant facts that have given rise to this writ petition.
3. The Variable Energy Cyclotron Centre (in short, VECC) in Kolkata is a unit of the Department of Atomic Energy (in short, DAE), Government of India, engaged in research and development in Accelerator Science & Technology, Nuclear Science, Material Science, Computer Science & Technology, and other fields, whereas ERNET India, a National Research and Education Network, is an autonomous society under the Department of Electronics & Information Technology, Ministry of Communication & Information Technology, Government of India.
4. ERNET India established ERNET Transit Nodes [(now known as Points of Presence (PoP)] at various R&D and academic institutions across the country to expand networking and email facilities. The PoP for the Eastern Part of India was located at VECC, Kolkata.
5. According to the Memorandum of Understanding (in short, MoU) executed between VECC and ERNET India, the manpower required for the ERNET Transit Node would be hired on a contract basis by VECC. However, the salaries and other benefits for this manpower would be paid by ERNET India through operational expenses.
6. Accordingly, a selection process was initiated to fill one post of Technical Assistant on a purely temporary basis for a period of one year,

with a consolidated salary of Rs. 4000 per month, under the Department of Electronics, Government of India, for posting at VECC, Department of Atomic Energy, Kolkata and an advertisement *vide*. no. VECC-1/98 was issued inviting applications from eligible candidates for the post.

7. The petitioner participated in the selection process and was successful. Consequently, the petitioner was offered the post. The petitioner accepted the offer and joined the post with a clear understanding that the engagement was purely temporary for one year and could be discontinued at any time without notice.
8. The MoU was extended from time to time. However, without initiating any further selection process, the petitioner's engagement was also extended and his consolidated salary was revised from time to time.
9. The letters dated July 24, 2012, and August 22, 2012, issued by the Assistant Personnel Officer, VECC, state that, pursuant to an interview held on July 27, 2012, to assess the petitioner's suitability for the extension of his engagement as a System Administrator for the Kolkata PoP Centre of ERNET India, the petitioner's engagement was extended for an additional year, effective from July 20, 2012.
10. The petitioner challenged both the letters dated July 24, 2012, and August 22, 2012, before the learned Tribunal by preferring an original application (in short, OA), being OA No. 818 of 2012. In the OA, the petitioner also sought a direction for VECC to grant permanent approval of his service in the appropriate post with a Grade Pay of Rs. 7600/-.

11. The MoU ceased to operate as of June 30, 2013. Accordingly, by a letter dated May 28, 2013, the petitioner was notified that there would be no requirement for his services beyond June 30, 2013.
12. By preferring a Miscellaneous application *vide*. MA no. 215 of 2012 in connection with the OA, the petitioner challenged the letter dated May 28, 2013. Record reveals that by an interim order dated 24.06.2013, the learned Tribunal directed VECC not to terminate the petitioner's appointment till the disposal of the OA. The petitioner preferred another application being MA 418 of 2013 seeking a direction upon the VECC to disburse his salary. By an order dated 27.09.2013, VECC was directed to release his salary since July 2013 and allow him to resume his duties.
13. However, the OA 818 of 2012 was finally disposed of by an order dated February 7, 2014. The operative part of the order dated 7.2.2014 is quoted as follows:

“As such under this peculiar circumstances we feel it appropriate to direct the VECC to take up the matter with the appropriate authority to suitably absorb the applicant in its organization, if required by giving him necessary training, and/or after obtaining necessary sanction for relaxation of essential conditions from the appropriate authority, and in due regard to the recommendations referred to hereinabove, pass appropriate orders within 3 months. Till such time the interim order granted earlier shall continue if not already set aside by the Hon'ble High Court and the applicant shall be allowed to perform his duties against any suitable post of VECC.”

14. With a complaint of wilful violation of the order dated February 7, 2014, the petitioner filed a contempt application, being C.P.C. No. 163 of 2014 before the learned Tribunal. Meanwhile, the respondents challenged the order dated February 7, 2014, passed in OA 818 of 2012, by filing a writ petition being WPCT 93 of 2014, which was dismissed by an order dated March 2, 2015. The order dated March 2, 2015, was then assailed by the respondents by preferring a Special Leave to Appeal (C) No(s). 12317 of 2015, but the appeal was dismissed by the Hon'ble Supreme Court.
15. However, pursuant to the order dated February 7, 2014, the petitioner was offered an ad hoc appointment to the post of 'Work Assistant/A' at the Regional Radiation Centre, VECC, Kolkata, with a consolidated monthly salary of Rs. 9700/- plus Dearness Allowance (D.A.), along with certain other terms, as specified in a letter dated August 10, 2015.
16. Records further reveal that, seeking judicial review of the order dated February 5, 2016, passed by the learned Tribunal in CPC 163 of 2014, the petitioner instituted a writ petition, being C.O.C.T. No. 01 of 2016. However, during the hearing of this writ petition, by a letter dated December 22, 2016, the petitioner was appointed as a 'Work Assistant/A' in a substantive/permanent capacity, with a basic pay of Rs. 18,000/- (Pay Level-1 of the pay matrix) and a gross pay of Rs. 27,319/- effective from October 28, 2016. Subsequently, by issuing another letter dated July 20, 2017, it was clarified that, in terms of F.R. 9(23)(b), the petitioner was granted a personal pay of Rs. 5,509/- per month, which, according to F.R. 37, would be reduced by any increase in the petitioner's pay and would

cease as soon as the petitioner's pay was increased by an amount equal to the personal pay.

17. These two letters dated December 22, 2016 and July 20, 2017 were brought to the attention of the Bench by preferring two applications, being CAN 363 of 2017 and CAN 7237 of 2017 respectively in connection with the writ petition, being C.O.C.T. 01 of 2016. However, as the learned Tribunal, acting as the Court of first instance, did not consider those two letters, the Bench dismissed the applications and writ petitions by passing an order dated 7.8.2019. In that order, the Bench observed that the order dated 7.8.2019 would not preclude the petitioner from seeking appropriate remedy before the learned Tribunal.
18. The petitioner alleges that the VECC arranged a high-level scientific training/workshop on IPv6, Linux System Administration, and Networking, as well as training in Multi-Protocol Label Switching, conducted by IIT Kanpur, the University of Calcutta, and the Inter-University Centre for Astronomy and Astrophysics (IUCAA), Pune, respectively, for him.
19. According to the petitioner's perception, the respondents should have recognized his 13 years of past service rendered at ERNET India and placed him in a Grade Pay of Rs. 7,600/-, considering his qualification of M.Sc. (IT). However, since the respondents appointed him to a post of Work Assistant/A, which, according to the petitioner, went against the extant recruitment rules, he was compelled to approach the learned Tribunal with OA 1206 of 2019.

20. The learned Tribunal, by an order dated May 2, 2022, dismissed the OA. It refused to accept the petitioner's contention that he is entitled to a Grade Pay of Rs. 7,600 and that his past service with ERNET India should be counted towards qualifying service. Hence, the writ petition.

Submissions:

21. Mr. Bandyopadhyay, learned advocate representing the petitioner, submits that by an order dated February 7, 2014, passed in OA 818 of 2012, the learned Tribunal directed the VECC to take up the matter with the appropriate authority to suitably absorb the petitioner into its organization, if necessary, by providing him with the required training and/or obtaining the necessary sanction for relaxing essential conditions from the appropriate authority.
22. He submits that, alleging wilful violation of the order dated February 7, 2014, the petitioner filed a contempt petition (CPC 163 of 2014) before the learned Tribunal. In contrast, the respondents challenged the order dated February 7, 2014, in WP.CT. 93 of 2014, which was dismissed by an order dated March 2, 2015, thereby affirming the order dated February 7, 2014. The respondents then took the matter to the Hon'ble Supreme Court by filing Special Leave Petition (S.L.P. (Civil) No. 12317 of 2015), which was also dismissed by an order dated July 6, 2015.
23. Mr. Bandyopadhyay argues that although the order of the learned Tribunal was ultimately affirmed by both this Hon'ble Court and the Hon'ble Apex Court, the petitioner has been appointed to the post of 'Work Assistant/A' with a monthly salary of Rs. 27,319/-, which, according to

him, is comparable to a Group-D post. He contends that no work has been assigned to the petitioner.

24. He argues that before this appointment, the petitioner worked as a 'System Administrator' and received training for that position, but he was ultimately appointed to the post of 'Work Assistant/A'. He asserts that the learned Tribunal had directed the VECC to absorb the petitioner into a suitable post. He submits that the petitioner has pursued M.Sc. in Information Technology and is, therefore, qualified for the post of System Administrator.
25. He submits that had the petitioner been appointed as of February 7, 2014, the date of the Tribunal's decision, his scale of pay would have been higher. He argues that the respondents terminated the petitioner's service and issued a fresh appointment solely to avoid regularizing his service and to deprive him of the benefits accrued from his 13 years of service. He further submits that, due to the loss of wages from this illegal termination, the petitioner is entitled to back wages. He asserts that, based on his qualifications and experience, the petitioner is entitled to a grade pay of Rs. 7,600/-.
26. He further argues that, according to the latest recruitment and promotion norms applicable to VECC employees, candidates with an M.Sc. qualification are eligible for the posts of SO(C), TO(C), SO(D), and TO(D) with 4 years of experience, while candidates with 9 years of experience are eligible for the posts of SO(E) and TO(E). He also clarifies that the requisite qualification for the post of SO(C) is an M.Sc., whereas for the post of SO(E), a minimum of 60% marks in the last examination is

required. He asserts that the petitioner, who last held the post of System Administrator and holds an M.Sc. degree in Information Technology with 79% marks, should therefore have been appointed to the post of Scientific Officer with a grade pay of Rs. 7600/-.

27. He cited examples to illustrate that some employees with lesser qualifications have been appointed to posts such as Scientific Assistant/F, SO/F, SO/D, SO/E, and Technician/F. He submits that the post of Work Assistant/A did not exist in the Recruitment & Promotion Norms, and in his view, the petitioner has been appointed to a non-existent post.
28. He submits that the petitioner possesses the requisite qualifications and was appointed following a selection process against a sanctioned vacancy. Therefore, the petitioner's appointment cannot be claimed to be illegal, but it may be considered irregular. According to him, the petitioner's service should have been regularized either in the post of System Administrator or Scientific Officer. To support his argument, he relies on the decisions in (2020) 19 SCC 480 (Siraj Ahmad v. State of Uttar Pradesh & Ors.) and 2016 SCC OnLine Bom 2497 (State of Maharashtra v. Meena A. Kuwalekar & Ors.).
29. In response, Mr. Bhattacharya, learned advocate representing the respondents, defends the order challenged in this writ petition by contending that the petitioner was engaged as a Technical Assistant for ERNET India on a purely contractual basis, starting from 20.07.1999, at a consolidated salary of Rs. 4000/- per month. He further asserts that the expenditure for this salary was incurred by ERNET India as operational expenses, based on the MoU executed between ERNET India and VECC.

30. The petitioner's salary was enhanced periodically, and he was re-designated as System Engineer/System Administrator in ERNET India. The MoU ceased to operate as of 30.06.2013 and consequently, the petitioner's service was discontinued as of that date. Prior to the cessation of his service, the petitioner used to draw a monthly salary of Rs. 27, 169/-.
31. He submits that to implement the order dated 7.2.2014 passed in OA 818 of 2012, a committee was formed. In its report, the committee noted that the petitioner had acquired 51.1%, 55.6%, 39.3%, and 79% in Madhyamik, H.S., B.Sc., and M.Sc. (IT) respectively. The committee also observed that the petitioner's M.Sc. (IT) was not recognized by the DAE, making him ineligible for the post of Technical Officer, which required a postgraduate degree with a minimum of 60% marks. Additionally, the committee found that the petitioner was not eligible for the post of Scientific Assistant, which required a B.Sc. or Diploma in Engineering with 60% marks. Based on his qualifications and the marks obtained in the above examinations, the petitioner was deemed ineligible for the posts of Technician, UDC, and LDC. Consequently, according to his qualification, the petitioner was appointed to the post of 'Work Assistant/A,' and his last drawn pay at ERNET India was maintained.
32. He argues that the petitioner accepted his engagement as Technical Assistant at ERNET India with a clear understanding that it was purely on a temporary basis. In 1998, there were no regular posts at VECC with a scale of pay of Rs. 4000/- per month. Posts at VECC are filled through a different selection procedure, which includes a training period for selected candidates before their appointment to various positions. According to

him, the petitioner is not suitable for appointment to a post at VECC with a grade pay of Rs. 7600/-. He further argues that by accepting the offer for the post of 'Work Assistant/A,' the petitioner is now estopped from raising any objections to his appointment.

33. He further argues that the petitioner cannot claim negative equality by asserting that, because there were some appointments made with lesser qualifications, he should be appointed to a higher post despite his own lesser qualifications. He asserts that the learned Tribunal, after considering all aspects, has rightly rejected the petitioner's claim for appointment to a post with a grade pay of Rs. 7600 and for back wages.

Analysis:

34. Therefore, the limited issue we are tasked with for resolving is whether the learned Tribunal erred in rejecting the petitioner's claim for appointment to the post of Scientific Officer or any other technical post with a grade pay of Rs. 7600/- (as per the recommendations of the 6th Pay Commission), for recognition of his past service as a contractual employee at the ERNET Transit Node and for back wages.
35. Admittedly, advertisement No. VECC-1/98 specified that the post of Technical Assistant for the ERNET Transit Node was purely on a temporary basis for a period of one year with a consolidated monthly salary of Rs. 4000/-. The requisite educational qualifications for the post, as prescribed in the advertisement, were: i) a B.Sc. or Diploma from a recognized polytechnic, and ii) a two-year Diploma in Computer Software Applications, along with two years of experience in computers under DOS/WINDOWS/UNIX. Additionally, it was specified therein that

preference would be given to candidates with experience in E-mail and networking activities.

36. According to the terms and conditions of the MoU executed between VECC and ERNET India, which formalized the relationship and outlined the operational modalities for the PoP within VECC/DAE, the required manpower would be hired on a contractual basis as per VECC's policy. No personnel employed for operations at the node would be on the rolls of ERNET India. Instead, their salaries and other benefits would be paid by ERNET India through operational expenses.
37. The petitioner participated in the selection process for the post and was successful. Consequently, the petitioner was engaged in the post. The MoU was extended periodically, and accordingly, the petitioner's engagement was also extended. In 2012, the petitioner was called for an interview for the position of 'System Administrator' at ERNET India and was ultimately engaged in that post for one year. The MoU ceased to be effective as of 30.06.2013, and consequently, the petitioner's service was discontinued with effect from 30.06.2013.
38. The petitioner challenged the engagement by filing OA 818 of 2012. As noted previously, by an order dated 7.2.2014, this OA was disposed of with a direction to VECC *'to take up the matter with the appropriate authority to suitably absorb the applicant into its organization, if required, by providing him with the required training and/or obtaining necessary sanction for relaxation of essential conditions from the appropriate authority, and in due regard to the recommendations referred to hereinabove, pass appropriate orders within 3 months.'* The petitioner

was allowed to continue in the post following the interim order issued by the learned Tribunal.

39. As noted earlier, the order dated 7.2.2014 was affirmed by both the Hon'ble High Court and the Hon'ble Supreme Court. The petitioner was paid a sum of Rs. 1,98,063/- and was initially offered an ad hoc appointment as Work Assistant/A with a consolidated salary of Rs. 27,319, as per the letter dated 22.12.2016. Subsequently, by another letter dated 20.07.2017, the petitioner was offered a substantive appointment as Work Assistant/A effective from 28.10.2016.
40. Pursuant to the liberty granted to him, the petitioner filed OA 1206 of 2019 to challenge the validity of the two letters dated 22.12.2016 and 20.07.2017. As noted earlier, this OA was dismissed by the order that is now under challenge in this writ petition.
41. The petitioner's main argument is that, with a M.Sc. (IT) qualification and 9 years of working experience, he is entitled to be absorbed into the post of Scientific Officer (C) or Technical Officer (C) with a grade pay of Rs. 7600. Additionally, the petitioner was provided training for holding the position of Scientific Officer.
42. In contrast, the committee formed to implement the order dated 7.2.2014 found that, since the M.Sc. (IT) qualification obtained by the petitioner from Allahabad Agriculture Institute was not recognized by the DAE and he scored less than 40% in B.Sc., he was ineligible for the posts of Scientific Assistant, Technician, or UDC at VECC. Consequently, the committee denied his absorption into any post equivalent to Scientific Assistant E and rejected his claim for a grade pay of Rs. 7600/-.

43. Before the learned Tribunal, the respondents justified their action in not accepting the M.Sc. qualification from Allahabad Agriculture Institute by citing decisions from various Hon'ble High Courts. In its order dated 2.5.2022, the learned Tribunal noted that the Hon'ble Supreme Court, in Civil Appeal Nos. 17869-17870/2017 (Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro & Ors.), observed that the 1994 AICTE Regulations do not apply to Deemed-to-be Universities and suspended all degrees awarded in Engineering by such institutions. The Hon'ble High Court of Gauhati, in WP(C) 5800 of 2018 (Bikramjit Das v. State of Assam), refused to consider a Master's degree in Education obtained from Sam Higginbottom Institute of Agriculture, Technology and Sciences through off-campus mode. Similarly, the Hon'ble High Court of Jammu & Kashmir, in SWP 473 of 2012 (Javaid Ahmad Dar v. State of J&K & Ors.), also rejected the petitioner's claim based on a degree obtained from Allahabad Agriculture Institute. As noticed earlier, the petitioner obtained the qualification from Allahabad Agriculture Institute through distance education mode.
44. The petitioner cannot deny that he secured less than 60% marks in both the Madhyamik and H.S. examinations, and 39% in the B.Sc. examination. According to the norms of the DAE, an essential qualification for the posts of Scientific Assistant (SA) (B), SA(C), SA(D), SA(E), and SA(F) is a minimum of 60% marks in B.Sc., which the petitioner did not achieve. Therefore, he cannot be considered for these posts. Additionally, the qualification for the UDC post at VECC requires 50% marks in B.Sc., which the petitioner also does not meet. Since his M.Sc. (IT) degree is not

recognized by DAE, he was deemed unsuitable for any scientific post at VECC. The Tribunal reviewed recent vacancy notifications and concluded that the petitioner was not suitable for any scientific or technical posts, nor for any position with a grade pay of Rs. 7600/.

45. Admittedly, the petitioner did not hold a regular post at VECC or ERNET India, and did not occupy any position equivalent to a post with a grade pay of Rs. 7600/- (a grade held by a Gazetted Officer). The learned Tribunal observed that there was no mandate for the respondents to relax entry-level qualifications for any Scientific and Technical posts, and the petitioner cannot claim absorption in any regular post equivalent to his contractual position.
46. In his last-ditch attempt, the petitioner cited examples showing that some employees were appointed to various posts with lesser qualifications. However, relying on the decisions from the Hon'ble Apex Court, reported in (2007) 5 SCC 519 (Bihar Public Service Commission & Ors. v. Kamini & Ors.), (2010) 2 SCC 422 (Union of India & Anr. v. Kartick Ch. Mondal & Anr.) and Civil Appeals Nos. 3904-95 of 2020 with nos. 3907-34 of 2020 (Pankajeshwar Shara & Ors. v. State of J&K. & Ors.), the learned Tribunal observed that, although some ineligible candidates were treated as eligible, this does not mean the petitioner should also be treated as eligible if he is not. Such action does not invoke the equality clause enshrined in Article 14 of the Constitution of India. It is clear that the concept of equality is positive and cannot be enforced negatively. An illegality cannot be perpetuated under the guise of the 'equality doctrine'.

47. Therefore, since the Hon'ble Apex Court observed that, in the absence of approval of AICTE, the M.Sc. (IT) degree obtained from Allahabad Agriculture Institute through distance education/off-campus mode cannot be recognized or accepted, no direction can be given to the respondents to accept the petitioner's M.Sc. (IT) degree. The matter was reviewed by the appropriate authority, which refused to relax the entry qualifications for any post to accommodate the petitioner. Admittedly, setting eligibility criteria falls within the exclusive domain of an employer and cannot be subject to judicial review unless it is found to be arbitrary, unreasonable, or not aligned with the nature of the services for which the appointments are to be made.
48. Indisputably, one of the essential qualifications for any Scientific or Technical post as well as for the post of UDC in VECC, is a minimum 60% marks in B.Sc. Therefore, due to his failure to secure 60% marks in B.Sc., the petitioner cannot be considered suitable for any Scientific or Technical post as well as in the post of UDC in VECC. Furthermore, the petitioner did not hold any regular post either in VECC or in ERNET India. The order dated 7.2.2024 did not mandate his absorption into a post equivalent to the one he held as a contractual employee in ERNET India. The petitioner's engagement with ERNET India was for a specific purpose under the terms of the MoU, which has since ceased to operate. It is a well-recognized principle that continuation in any post by virtue of an interim order of any Court or Tribunal does not entitle an employee to regularization in that post.

49. In *Siraj Ahmad (supra)*, the petitioner was appointed on an ad hoc basis to the post of Junior Engineer following a selection process, which was initiated without the concurrence of UPSC. While in service, Mr. Ahmad obtained a B.Sc. (Engineering) degree and subsequently claimed promotion. The Hon'ble Court held that Mr. Ahmad's appointment, though irregular, was made against a sanctioned post and through a selection procedure, and thus directed that his promotion be granted. In *State of Maharashtra v. Meena A. Kuwalekar (supra)*, the respondents were appointed against sanctioned posts. In the present case, the petitioner was not engaged against any sanctioned post. As noted earlier, the petitioner was engaged for a specific purpose under the terms of a MoU between VECC and ERNET India. Although the MoU's operation and the petitioner's engagement were extended from time to time, the MoU eventually ceased, and the petitioner's service was discontinued. Therefore, Mr. Ghosh's reliance on these two judgments is misplaced, as they are distinguishable on their facts.
50. We may refer to two decisions from the Hon'ble Supreme Court: (2001) 8 SCC 532 (*Bhanu Prasad Panda v. Chancellor, Sambalpur University*) and (2009) 4 SCC 170 (*Union of India v. Dharam Pal*). In both judgments, the Hon'ble Apex Court held that, in the absence of an enabling provision for granting relaxation, no relaxation of essential academic qualifications can be made. Even if such a power is provided under the Statute, it cannot be exercised arbitrarily. The petitioner has not demonstrated any rule or provision of any rule enabling VECC to relax the minimum educational qualifications for any post. In the celebrated decision of *Uma Devi*,

reported at (2006) 4 SCC 1, it was held that there is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim absorption in a particular post. However, in that judgment, it was ruled that if a person has worked for 10 years or more in a duly sanctioned post without the benefit or protection of an interim order from any Court or Tribunal, such a person can claim regularization. However, if a person is appointed without the prescribed qualifications, such an appointment is considered illegal. Therefore, no direction can be given upon the employer to relax prescribed qualification to accommodate any employee engaged on temporary basis. In the present case, no materials have been provided to demonstrate that the petitioner received training in accordance with the order of the learned Tribunal, or that there was an assurance of his absorption into a Scientific or Technical post with a grade pay of Rs. 7600/- upon completion of the training.

Conclusion:

51. In this context, we are of the considered opinion that the learned Tribunal, after assessing all the materials, arrived at specific factual findings and, by rendering a reasoned decision, rejected the petitioner's claim for absorption into any suitable post with a grade pay of Rs. 7600/- (as per the 6th Pay Commission recommendations), for recognition of his service on contractual basis at ERNET India and for back wages. We did not find any error, let alone a patent or jurisdictional error, in the decision-making process, nor any substantial miscarriage of justice that would warrant interference with the order challenged in the writ petition.

Order:

52. As a conclusion, the writ petition is, thus, dismissed. However, there shall be no order as to the costs.

(Partha Sarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)