

05.11.2024
Court No. 18
Item No. 72 (ML)
(Suvendu)

WPA 12506 of 2023

Rina Halder
-Versus-

The State of West Bengal & Ors.

Mr. N.C. Bhandary
.....for the petitioner

Ms. Sanghamitra Nandi
Mr. Raja Ram Banerjee
.....for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

By presenting this writ petition petitioner has virtually prayed for approval of her appointment as an Assistant Teacher in Gulbag Junior High Madrasah, Howrah. In support of the case made out in the writ petition, attention of this Court has been drawn to the appointment letter dated 23rd April, 1993 issued by the Secretary of the aforesaid Madrasah.

Learned advocate representing the petitioner submits that petitioner has been working as Assistant Teacher in the aforesaid madrasah for a long period of time which requires consideration for issuing mandamus directing the State respondents to sanction the

post against which petitioner is presently working and accord approval of appointment.

State respondents are represented by learned advocate who has opposed this writ petition on the ground that initial appointment of the petitioner was *de hors* the recruitment Rules, therefore, no right accrues in her favour.

Having considered the respective submissions made on behalf of the parties and taking note of the materials available on record, it appears that petitioner's initial appointment was not in accordance with the recruitment Rules which were in vogue. Nothing has been shown before this Court that the post against which petitioner was appointed was approved post and prior permission was issued by the concerned District Inspector of Schools (SE) for initiating selection process to fill up the said post. It transpires that no enforceable right has been accrued in favour of the petitioner based on her appointment vide appointment letter dated 23rd April, 1993 warranting issuance of mandamus in order to protect the service of the petitioner. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court reported in **(2006) 4 SCC 1 (Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors.)**.

Accordingly the writ petition stands dismissed.

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

Urgent photostat certified copy of this order, if applied for be given to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)