

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

M.A.T. 980 of 2024
(CAN 1 of 2024)

Arun Kumar Roy
-Vs-
The State of West Bengal & Ors.

For the Appellants : Mr. Alok Roy Chowdhury, Adv.,
Ms. Anindita Roy Chowdhury, Adv.

For the State : Mr. Lalit Mohan Mahata, AGP,
Mr. Rudranil De, Adv.

Heard on : 21.08.2024

Judgment on : 21.08.2024

Joymalya Bagchi, J. :-

1. Appellant has assailed judgment and order dated 23.04.2024 whereby the Hon'ble Single Judge uphold the decision of the District Panchayat and Rural Development Officer (for short DP & RDO), Nadia rejecting the prayer of the appellant for enhancement of his remuneration in terms of Government Memorandum dated 16.09.2011.

2. Appellant's case in brief is as follows:-

Appellant was appointed as a daily rated worker in the capacity of Panchayat Karmee in August, 1990 in Majhergram Gram Panchayat. He worked continuously in the said post for more than 10 years. Government Memo.No.9008-F(P) dated 16.09.2011 provides casual/daily rated contractual workers who had rendered service for at least 240 days each year were entitled to continue in the same status and capacity till their attaining the age of 60 years and were to be granted entry point basic pay in PB-I i.e. Rs.6000/- per month admissible to casual/daily rated/contractual group 'D' workers as a consolidated remuneration which is to be enhanced by 5% every three years.

3. Appellant made prayer for grant of enhanced remuneration in terms of the aforesaid Government Memorandum but no decision was taken. Accordingly, he approached this Hon'ble Court and the Hon'ble Court in WP No.22775 (W) of 2015 and a Hon'ble Single Judge (as His Lordship then was) directed the matter to be decided after giving an opportunity of hearing to the appellant.
4. Pursuant to the order, the DP & RDO rejected the prayer of the appellant, inter alia, on the ground that the Government order was not applicable to contractual engagement made without sanctioned post. This came to be challenged before the Hon'ble Single Judge

who by the impugned judgment uphold the decision of the DP & RDO concerned.

5. Mr. Roy Choudhury for appellant contends that the appellant had been appointed as a Panchayat Karmee and has continuously rendered service for more than ten years. He was entitled to the benefits of the Government Order.
6. On the other hand, Mr. Mahata submits the letter of appointment of the appellant shows he was appointed against Social Forestry Scheme and were paid from the funds of the said scheme and thereafter, from the own fund of the Panchayat. His appointment has not been sanctioned by the BDO concerned.
7. We have considered the materials on record. Clause (x) of the Government Order reads as follows:-

“x) The provisions of this Order will not be applicable where contractual engagement has made without any sanctioned post and for any project for a very temporary period upto a maximum 6(six) year or Ing up of the project whichever is earlier. Thus in such case steps will 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.”

8. As per the aforesaid Clause, the Government Order shall not apply to contractual engagements made against non-sanctioned posts and for projects of temporary nature. Letter of appointment annexed at page 63/65 of the stay application shows that the

appellant was appointed under the Social Forestry Scheme and his service was also utilized for other purposes.

9. During the hearing before the DP & RDO concerned, Pradhan admitted that the appellant had been appointed under the scheme as a temporary worker and was paid either from various scheme contingencies or own fund of the Gram Panchayat. The letter of appointment and the submission of Gram Pradhan before the DP & RDO clearly shows that his appointment was under a particular scheme and not a sanctioned post.
10. Mr. Roy Choudhury strenuously argues that his client had rendered services equivalent to a Panchayat Karmee. We are not impressed by such submission. The terms of engagement clearly spelt out in the letter of appointment and in the submission of the Pradhan before DP & RDO shows he was engaged under the Social Forestry Scheme and not a sanctioned post. Though he may have been utilized for other work but for the purpose of applicability of the Government Order the determining factor shall be the terms of his appointment as a temporary employee under the scheme and not otherwise.
11. For these reasons, we find no merit in the appeal and the appeal is accordingly dismissed.
12. Consequently, connected application is also dismissed.
13. There shall be no order as to costs.

14. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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