

04.07.2024
Court No.13
Item No.287
AP

WPA 16177 of 2017

**Kush Lal Dari
Vs.
The State of West Bengal & Ors.**

Mr. Uday Sankar Chattopadhyay
Mr. Suman Chatterjee
Ms. Trisha Rakshit
Mr. Rajashree Tah
Ms. Aishwarya Datta

... For the Petitioner.

1. Supplementary affidavit filed by the petitioner is taken on record.

2. The petitioner claims to have obtained an appointment as an Assistant Teacher under the DPSC, Burdwan on 23rd December, 1998 and he joined on 2nd January, 1999. He worked for about three years.

3. By an order dated 4th April, 2002, the DPSC, Burdwan found that the marksheet submitted by the petitioner to the authority to conduct training was fake. His service along with five other teachers was terminated by the said order dated 4th April, 2002. Criminal proceedings being GR No.946 of 2002 under Sections 420, 467 and 468 of the IPC, inter alia, initiated against the petitioner and the said five teachers.

4. There was a trial and the Judicial Magistrate, 4th Court at Burdwan acquitted the petitioner by a judgment and order dated 24th May, 2010 on the ground that the prosecution could not prove the case against the

petitioner. The prosecution could not produce the fake marksheet.

5. By an order dated 24th November, 2016 the petitioner was reinstated in service. He superannuated from service on 30th November, 2016. The petitioner claims salary for the entire period from April 2002 till November 2016 and other service benefits including pension.

6. The Sub-Inspector of Schools (PE), Ketugram Circle, Burdwan requested the DPSC, Burdwan to prepare salary bills from 1st March, 2002 to 30th November, 2016.

7. By an order dated 7th April, 2017 the DPSC, Burdwan revoked the order of reinstatement dated 24th November, 2016 and revived the order of termination of service of the petitioner dated 4th April, 2002.

8. It is argued by Mr. Uday Sankar Chattopadhyay, learned counsel for the petitioner that the order of termination from service from 2002 passed on 7th April, 2017, after the superannuation of the petitioner, is null and void.

9. This Court has carefully considered the records and the facts of the case. It appears that the writ petitioner admittedly did not serve the school from 1st March, 2002 till 30th November, 2016. The petitioner has been discharged in the criminal proceedings since the prosecution could not produce the fake marksheet. There

are, however, some materials on records to indicate some impropriety on the part of the petitioner and the other accused persons. Any of departmental enquiry post retirement would be contrary to law. Admittedly, the petitioner received salary and emoluments for the three years of service that he has rendered.

10. This Court is, therefore, of the view that the petitioner is not entitled to any relief or any claim as on date. The order revoking the termination after 15 years could not have been passed by the DPSC Burdwan. The termination of the petitioner's service by an order dated 4th April, 2002 must be deemed to have become final. The question of any revival of the petitioner's service does not and cannot arise.

11. The communication by the Chairman, DPSC, Burdwan dated 11th February, 2022 addressed to the Sub Inspector of Schools, Ketugram Circle, asking for preparation of the service book of the petitioner is of no consequence in law. The said order is void.

12. Hence, the writ petition fails and hereby dismissed.

13. There shall be no order as to costs.

14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

