

23.07.2024
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WPCT 189 of 2024
Chief Post Master General & Others
– *Versus* –
Shri Upendra Singh & Others

Mr. Sahasrungshu Bhattacharjee,
Mr. Sukanta Ghosh
... for the Petitioners/UoI.

Mr. Ujjal Ray,
Mr. Arpa Chakraborty
... for the Respondents.

The present writ petition has been preferred by the postal authorities challenging an order dated 17th November, 2023 passed by the learned Tribunal in the original application (hereinafter referred to as OA), being OA 2072 of 2021. By the said order the learned Tribunal quashed and set aside the memoranda dated 4th January, 2021 and 12th January, 2021 issued by the respondent no.2.

Mr. Bhattacharjee, learned advocate appearing for the petitioners submits that the respondents were engaged as part time contingent paid staff without prior approval of the competent authority. The period, during which the respondents were engaged, there was a complete ban on recruitment of casual laborers and as such in the letter dated 4th January, 2021 it was rightly observed that the original applicants/respondents

herein cannot be treated as part time contingent paid staff.

According to Mr. Bhattacharjee, when the initial engagement was in derogation to the statutory guidelines, the learned Tribunal ought not to have interfered with the decision of the authorities, as contained in the memo dated 4th January, 2021. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Ray, learned advocate appearing for the respondents herein denies and disputes the contention of Mr. Bhattacharjee and submits that the respondents are discharging their services as part time contingent paid staff for a continuous period of more than two decades. Such fact has not been disputed by the petitioners. By an order dated 23rd September, 2015 the designation of the petitioners was changed and their pay was sought to be reduced illegally. The said order was assailed before the learned Tribunal and pursuant to the direction passed in the same, a speaking order was issued on 7th April, 2016 observing *inter alia* that the documents as regards engagement of the part time contingent paid staff needs to be reviewed and till such decision is taken, the decision dated 23rd September, 2015 shall be kept in abeyance. As no final order was

passed thereafter, the respondents again approached the learned Tribunal by preferring original applications (being Nos. 0808-0811 of 2016) which were disposed of by an order dated 29th May, 2023 observing *inter alia* that since no final decision has been taken, the authorities shall restore the previous pay prior to issuance of memo dated 23rd September, 2015. Subsequent thereto, the memoranda impugned in the original application were issued without considering the entire sequence of facts and without disclosing appropriate reasons. In view thereof, the learned Tribunal rightly interfered with the memoranda dated 4th January, 2021 and 12th January, 2021 issued by the respondent no.2.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the respondents were engaged as part time contingent paid staff and the fact that they are discharging continuous for a long period of 26 years had not been disputed by the petitioners. Abruptly thereafter such engagement was questioned on a purported ground that the initial engagement was irregular.

The argument of the petitioners that the respondents were engaged without prior approval of the competent authority and that such engagement was

irregular was rightly discounted by the learned Tribunal in consideration of the uninterrupted service rendered by the respondents for more than two decades and in view of the safeguards provided in the earlier rounds of litigation. For the laches on the part of the petitioners, the respondents cannot be made to suffer and as such the learned Tribunal rightly refused to exercise discretion in favour of the petitioners and we do not find any error in such decision warranting interference of this Court.

Accordingly, the writ petition, being WPCT 189 of 2024 is dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)