

Court No. 2

25.6.2024

(Item No. ML-
170)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 17053 of 2023

Phalguni Kumar

VS

The State of West Bengal & Ors.

Mr. Saibal Acharya

Mr. Sukhendu Bikash Mukherjee

.... For the petitioner

Mr. Rajsekhar Basu

.....For the State

Affidavit of service filed in Court today, is taken on record.

Mr. Saibal Acharya, learned advocate appears for the petitioner.

Mr. Rajsekhar Basu, learned State advocate appears for respondent Nos. 1 to 7.

Rest of the respondents are not represented.

The petitioner has been working as a contractual employee at the post of **Register (MGNREGS)**. The petitioner claims non-payment of salary in terms of a particular Government resolution dated **September 16, 2011** and the subsequent notifications issued there under. Referring to a representation dated **April 20, 2023, Annexure P-7** at **page 47** to the writ petition, Mr. Saibal Acharya, learned advocate appearing for the petitioner submits that, the said representation has not been disposed of by the respondent No. 5.

In view of the above, the respondent No. 5 upon issuing a prior hearing notice of at least seven days to the petitioner and any other appropriate authority/authorities he thinks fit and proper and after giving them an opportunity of hearing shall consider the representation of the petitioner dated **April 20, 2023** as referred to above by passing a reasoned order in accordance with law.

The entire direction as directed above shall be carried out and completed by the respondent No. 5 positively within a period of **six weeks** from the date of communication of this order. The respondent No. 5 then shall communicate the reasoned order to the petitioner and any other appropriate authority positively within a further period of **two weeks** from the date of the reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon before the respondent No. 5 but the same shall not travel beyond the scope of the representation dated **April 20, 2023**.

In the vent, the reasoned order goes in favour of the petitioner, then the respondent No. 5 shall immediately take all necessary and consequential steps and shall issue all necessary and consequential

directions upon the appropriate State authorities and/or any other authority to give an immediate effect to the said reasoned order. Such authority shall give an immediate effect to the said reasoned order positively within a period of **five weeks** from the date of receiving the reasoned order to be passed by the respondent No. 5.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the petitioners are not eligible to receive his claim strictly in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition **W.P.A 17053 of 2023** stands **disposed of**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)