

29.07.2024
Court No. 18
Item No. 07
(Suvendu)

WPA 18229 of 2024

Dibyakanti Purkait
-Versus-

The State of West Bengal & Ors.

Mr. Dyutiman Banerjee
Mr. Vishal Mallick
.....for the petitioner

Mr. Jahar Lal De
Ms. Ashmita Ghosh
....for the State

Ms. Koyeli Bhattacharyya
.....for the WBBSE

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

Petitioner has prayed for grant of approval
of appointment as Assistant Teacher in
Ramdevpur Junior High School, District – South
24 Parganas. According to the petitioner, his
case is fortified by the order dated 2nd May, 2008
passed by a Coordinate Bench on a writ petition
being WP No. 641 of 2008. Petitioner prays for
similar relief as that was extended in favour of
other teachers who were appointed with the
petitioner.

State respondents and the West Bengal Board of Secondary Education are represented by the learned advocates who have jointly opposed the prayer of the petitioner.

Mr. De, learned advocate representing State respondents submits that initially appointment of petitioner was *de hors* the recruitment Rules prevalent at the material point of time against an unsanctioned post. Therefore, no right accrues in favour of the petitioner. It is also submitted that the order dated 2nd May, 2008 passed by the Coordinate Bench on a different context where the respondent authorities did not oppose the prayer for grant of approval of appointments in favour of the writ petitioners in the said writ petition.

Having considered the submissions made on behalf of the parties, it appears that by making a representation which is at pages 21 to 22 of the writ petition petitioner has claimed grant of approval of his appointment as an Assistant Teacher in the aforesaid school with effect from 12th January, 2005.

However, on perusal of the writ petition it does not appear that petitioner was appointed following the recruitment Rules prevalent at the

material point of time and appointment of the petitioner was *de hors* the provisions of the West Bengal School Service Commission Act, 1997 and the Rules framed thereunder. Therefore, no enforceable right accrues in favour of the petitioner warranting issuance of mandamus. In this regard, reliance has been placed on the judgment of the Hon'ble Supreme Court in **State of Karnataka Vs. Umadevi**, reported in **2006 (4) SCC Page 1**.

The order dated 2nd May, 2008 does not come in aid of the petitioner since it was passed considering the specific stand taken by the school authority before the Court. It was recorded in the order dated 2nd May, 2008 that the school authority did not oppose the prayer of the petitioner in that writ petition.

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.)

