

05.09.2024
Court No. 18
Item No.11
(Suvendu)

WPA 21731 of 2024

Asim Sarkar
-Versus-

The State of West Bengal & Ors.

Mr. Rajib Kumar Basu
.....for the petitioner

Mr. Saptarshi Guha
.....for the State

Mr. Ashim Kumar Halder
...for the respondent nos. 4-6

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

Learned advocate representing the petitioner submits that petitioner was working as night guard in a Government aided school with effect from 5th February, 2009 on being appointed by the then Secretary of the Managing Committee of the school. Due to an incident of theft which occurred on 19th February, 2024 in the school premises at night from 20th February, 2024 petitioner was not permitted to discharge duty as night guard and salary of the petitioner was stopped. Petitioner prays for payment of salary and issuance of mandamus directing the school authority to allow him to resume his duty.

State respondents and school authority are represented by learned advocates who have opposed the prayer of the petitioner since petitioner was not appointed following recruitment Rules which were prevailing at the

material point of time; he has got no right to claim continuity in service.

Having considered the submissions made on behalf of the parties, this Court finds that since petitioner was not appointed in the post of non-teaching staff in the school following extant recruitment Rules no enforceable right is accrued in favour of the petitioner warranting issuance of mandamus in order to protect his right.

In this regard reliance is placed on the judgment of Hon'ble Supreme Court reported in (2006) 4 SCC 1 (Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors.).

Hence, writ petitioner 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.)