

01.04.2024
Item No.8ML
Ct. No.11
CHC
(disposed of)

W.P.A. 22546 of 2012

**Dr. Maniklal Maity
C & C R**

Vs.

The State of West Bengal & ors.

Mr. Chittapriya Ghosh,
Mr. Goutam Acharya,
Ms. Priyanka Saha
...for the petitioner

Mr. Mrinal Kanti Ghosh,
Ms. Sayantanee Bhattacharjee
...for the State respondents

Affidavit-of-service filed in Court be taken on record.

None appears for the School Authority despite service.

Seeking a direction upon the concerned respondents to pay unpaid remuneration of Rs.2,04,228/- along with interest accrued thereon and also to re-engage the petitioner and allow him to continue to render service in the post of Contractual Instructor in Health Worker Trade of Vocational Training Centre in Begunabari High School (VTC Code – 3168) (in short, the school), the present writ petition was instituted.

Shortly put, the facts, as projected in the writ petition, are that the school started to impart vocational training and education at VIII + level and X+2 level and the school became an institute of Vocational Training Centre (Code no. VTC-3168) as well and got affiliation of the West Bengal State Council of Vocational Education and Training. Such

vocational centres enjoy grant from the Government of West Bengal towards remuneration of teachers, instructors and other staff of the centres.

In response to the advertisement published in the Newspaper in June, 2007, the petitioner being an eligible candidate offered his candidature for the post of 'Contractual Instructor' in Health Worker Trade and participated in the selection process and emerged to be successful. As such, the petitioner was engaged in the post and on being engaged, the petitioner rendered his service without any blemish in the School since August, 2009 to August 2012 but no remuneration has been paid to the petitioner though the school authority duly received grant towards remuneration of all Contractual Instructors and Teachers of the school from the Government of West Bengal in due time. Situated thus, the petitioner approached the competent authorities with a representation but despite being so approached, the concerned respondents maintained deceptive silence which prompted the petitioner to knock on the door of this Court by preferring the present writ petition.

The parties exchanged their affidavits, as directed.

The stand taken by the school authority is that petitioner failed to produce his letter of engagement and as such, no remuneration has been paid to him.

Mr. Ghosh, learned advocate representing the petitioner contends that the petitioner was engaged in the post following a selection process and he next contends that the

letter of engagement, which was issued to the petitioner, was preserved by the school authority in its custody but subsequent thereto, the school authority took a stand that the letter of engagement of the petitioner was not available and as such, no payment was made to the petitioner. Drawing my attention to the resolution adopted by the Staff Council of the School on 3rd January, 2011, it was contended by him that the petitioner's name would be reflected from such resolution. Mr. Ghosh claims that from the attendance register of the school, it would be evident that the he petitioner rendered his service in the school as Contractual Instructor from August, 2009 to August, 2012. He asserts that from the letter of the Teacher-in-charge dated 11.8.2011 addressed to the respondent no.2, it would be reflected that the petitioner rendered his service in the school. Placing an unreported judgment passed by a co-ordinate Bench of this Court in W.P. No.14434 (W) of 2012 (Subikash Mondal-vs- State of West Bengal and Ors.) submits that an identical issue of one teacher of the same school, namely, one Mr. Subikash Mondal was relegated to the respondent no. 2 and ultimately, due to intervention of respondent no. 2, Mr. Mondal was paid his remuneration. He submits that petitioner would be satisfied if the issue is relegated to respondent no. 2.

Ms. Sayantanee Bhattacharjee, learned advocate appearing for the State submits that the State has no role to play in this *lis*. She submits that on the basis of the requisition made by the school authority, necessary funds

towards remuneration of the teachers and instructors were released to the school authority from time to time and it was the duty of the school authority to pay off the remuneration to all Contractual Instructors, part-time teachers etc. engaged by the school authority.

Heard learned advocate appearing for the respective parties.

Indisputably, no letter of engagement of the petitioner has been brought on record. The petitioner's letter dated 30.09.2011 addressed to the Secretary of the school reveals that the petitioner participated in the selection process undertaken in 2007 but could not emerge to be a successful candidate and the candidate, who was selected in the post, resigned from the post in 2009 and then in 2009, the petitioner being an enlisted candidate was engaged in the post. The resolution which was adopted by the Staff Council of the school being presided over by the Teacher-in-charge concerned on 3rd January, 2011, postulates that the petitioner had been rendering his service regularly in the school. The attendance register contains the petitioner's name as a part-time instructor. By a communication to the respondent no.2 on 11.08.2011, the Teacher-in-charge himself admitted as follows:

"..This is to certify that the litigated four teachers' salary are not included. I have submitted on the basis of their engagement letter and the last acquittance". Suffice it to observe that petitioner's name was referred in the

communication as one of the aforesaid four teachers. Therefore, it is noteworthy that the afore-mentioned documents give a clear indication that the petitioner had rendered his service in the school.

In such sequence of events, the writ petition is disposed of with a direction upon the respondent no. 2 to decide the issue raised in the representation of the petitioner dated 16th May, 2012 after affording opportunity of hearing to the petitioner and the representative of the school authority in the light of observations made in this order. If the petitioner's claim is found to be justified then the Director of all concerned shall take next follow up action so that the petitioner's grievance is redressed and in case the petitioner's claim is found to be unfounded, then a reasoned order shall be passed and such order must be communicated to the petitioner. The entire exercise shall be completed within two months from the date of receipt of a copy of this order. The parties are at liberty to produce the documents which, in view of the respondent no.2, would be relevant and required to resolve the issue.

With these observations and order this writ petition is, thus, disposed of however, without any order as to costs.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Partha Sarathi Chatterjee, J.)