

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Jay Sengupta

WPA 25971 of 2023

Barunava Maiti
Vs.
The State of West Bengal & Ors.

For the Petitioner: Mr. Saktipada Jana,
 Ms. Sudipta Pramanik.

For the State: Mr. Bhaskar Prasad Vaisya Id.AGP.,
 Mr. Janardan Mondal.

For the Respondent nos.6&7: Mr. Saibal Acharya,
 Mr. Abdus Salam.

Heard On: 09.09.2024

Judgment On: 09.09.2024

Jay Sengupta, J.:-

1. This is an application praying for a direction upon the respondent authorities to allow the petitioner to resume his duties as contractual teacher at the vocational training centre run by the Institution and

direct them to disburse the remuneration with arrears due from April, 2023 till date.

2. Report filed on behalf of the Teacher-in-Charge of Bhimeswari Uchcha Sikshayatan being respondent no.6 is taken on record.

3. Learned counsel appearing on behalf of the petitioner submits that his client would not like to file any exception but would controvert the allegations made in the Report by making oral submissions. He submits that the petitioner had joined the Institution on 05.07.2010. According to the concerned Government Circular, even the tenure of contractual workers like him are to be protected till the age of 60 years. In 2023, some political violence took place in the area. The petitioner received injuries and filed a complaint. However, a counter FIR was also lodged against him. The petitioner was arrested, was in custody for 12 days and thereafter, came out on bail. In the meantime, on 15.02.2023, the petitioner had applied for leave before the Institution. He reiterated his prayer for leave. After some time, in September 2023, when the petitioner went to join back the Institution and resume work, he was prevented from doing so. No departmental or disciplinary action was taken. In fact, no formal termination has taken place of

such employment. Reliance is placed on an order dated 16.05.2023 passed by a Coordinate Bench of this Court in *WPA 8914 of 2023*.

4. Learned counsel appearing on behalf of the respondent no.6 denies the allegations made in the writ petition and submits as follows. The petitioner went on leave in the early part of 2023 and returned and demanded resumption of work only in the month of September, 2023. On 20.09.2022, the respondent authorities wrote the Director of the Vocational Training. The Director asked the concerned authorities to decide either to reinstate or to terminate the services. The Managing Committee also resolved in this regard in October, 2023. In fact, there was a show cause given to the petitioner to explain the long absence and no reply was given for the show cause. There is no question of payment of any back wages because the petitioner despite requested by the Institution did not join his service. There was also suppression of being arrested in a criminal case during such time.
5. The State is represented.
6. I have heard the submissions of the learned counsel appearing on behalf of the parties, perused the writ petition and the report filed by the respondent no.6.

7. Admittedly, the petitioner had been working as a contractual teacher at the Institution since 2010. In 2023, the petitioner fell into some trouble. He purportedly applied for leave, in February, 2023 but came back to join the service only in September, 2023.
8. In spite of all these, it does not appear that the respondent authorities of the Institution had initiated any formal action in this regard. Although, a show cause was made regarding long absence, it was not followed by any order of termination or, for that matter, any intervening departmental or disciplinary action.
9. It also appears that the respondent authorities did not formally show cause the petitioner about his involvement and arrest in a criminal case.
10. Without taking such an action or granting an opportunity of hearing, it is not open to the respondent Institution to forcibly and physically prevent the petitioner from resuming his service.
11. In view of the above, the respondent nos.5 and 6 are directed to allow the petitioner to join his duties as a contractual teacher at the

Institution forthwith. However, no order is passed regarding wages for the period for which the petitioner had remained absent. The petitioner, however, shall have the liberty to make representation in this regard to the concerned authorities.

12. The Institution shall also be at liberty to initiate any disciplinary or other proceeding against the petitioner in accordance with law.
13. With the aforesaid directions, the writ petition is disposed of.
14. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)

NB/10