

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

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05.09.2024

WPA 1850 OF 2024

kc Ct. no.2

Dipti Roy

Vs.

The State of West Bengal & Ors.

Mr. Anirban Banerjee, Adv.
Mr. Soumyajit Laskar, Adv.
....For the petitioner

Mr. Hirak Barman, Adv.
Mr. Kumar Shantanu, Adv.
....for the State

The affidavit-of-service filed in court today is taken on recprd.

Mr. Anirban Banerjee, learned counsel, appears for the petitioner.

Mr. Hirak Barman, learned counsel along with Mr. Kumar Shantanu, learned State Advocate, appears for the respondent nos. 1 to 4.

The rest of the respondents are not represented, despite notice.

The petitioner contends that she was appointed as a temporary games teacher at one **Eklavya Model Residential High School**. The petitioner claims that similarly placed temporary teachers at the same school had also joined the

same school along with the petitioner on the same day as temporary teachers. The petitioner complains violation of her right guaranteed under Article 14 of the Constitution of India as the similarly placed persons have received contractual appointment but the case of the petitioner was rejected.

Referring to a representation dated January 16, 2020, **annexure P-4** at page 16 to the writ petition, learned counsel appearing for the petitioner submits that the petitioner submitted her representation. By the impugned communication dated May 12, 2023 at page 20 to the writ petition, the authority had rejected the claim of the petitioner. As a plea for rejection, a memo dated **March 29, 2019** was also referred to, which put an embargo for recruitment of contractual teachers. Learned counsel for the petitioner then refers to a memo dated **August 24, 2016, annexure P-3** at **page 15** to the writ petition, which shows that the authority informed the jurisdictional District Magistrate that they have no objection to the proposal to appoint whole-time guest teachers as contractual teacher and necessary action was directed to be taken immediately. On the plea of the said memo, the petitioner claims appointment.

Learned counsel for the State submits that the appointment of the petitioner was on a temporary basis which had not created any right in favour of the petitioner to claim a further appointment, in the event the said temporary appointment ceases. Furthermore, referring to the said memo dated March 29, 2019, he submits that this is a later memo issued subsequent to the memo dated August 24, 2016 which has been relied upon by the petitioner.

Learned State counsel submits that this writ petition is totally devoid of any merit and is liable to be dismissed.

After considering rival contentions of the parties and after perusing the materials-on-record, at the outset, it appears to this Court that the admitted fact is the petitioner was appointed on a temporary basis and she seeks a further appointment on a contractual basis. An appointment which was made on a temporary basis or even on a contractual basis, the same does not create any right in favour of such appointee. As no right has been created in favour of such appointee, it cannot be construed that there has been any violation of the provisions laid down under Article 14 of the Constitution of India.

To give an appointment on a temporary basis or on a contractual basis, it is the discretion of the employer and also guided by the appointment policy. The subsequent memo dated March 29, 2019 suggests an embargo for recruitment of contractual teachers and the same was stopped until further order. It is not the case of the petitioner that subsequent to the said memo dated March 29, 2019, any policy decision has been taken by the employer to proceed with any appointment on temporary basis or a contractual basis.

On a close scrutiny of the impugned decision dated May 12, 2023 whereunder the claim of the petitioner was rejected, this Court is convinced that the same does not suffer from any infirmity and there is no error in the decision making process as there was no right created in favour of the petitioner seeking contractual appointment. Moreover, the policy of appointment also put an embargo for recruitment of contractual teachers.

In view of the above discussions and reasons, the impugned decision dated **May 12, 2023 is not interfered with and the same sustains.**

Accordingly, this writ petition, **WPA 1850 of 2024**, being devoid of any merit, stands **dismissed**, without any order as to costs.

However, it is made clear that in the event the employer adopts any further policy for appointment of contractual teachers or teacher on temporary basis, the petitioner may participate in the selection process, if the petitioner is otherwise found to be eligible for such appointment in accordance with law. In such event, the candidature of the petitioner shall be considered and evaluated along with the other applications strictly in accordance with merit and in accordance with law.

This order, however, shall not create any right or equity in favour of the petitioner, in the event the petitioner participates in the subsequent selection process.

(Aniruddha Roy, J.)