

28.07.2025

rpan/25

CPAN 52 of 2018

Anil Baran Bauri

- Versus -

Esha Sengupta & Others

in

WPA 4544 of 2017

Ms. Bratati Dutta

... for the petitioner.

Mr. Sk. Md. Galib,

Ms. Sujata Mukherjee

... for the Alleged Contemnor.

The petitioner, an appointee to the post of secretary of the Gram Panchayat, Chhirudih from 31st July, 1991 as a casual employee. To obtain regularization of his service and financial benefits thereof, the petitioner had approached this Hon'ble Court by way of a writ petition, being W.P. No.4544 (W) of 2017 [Newly numbered as WPA 4544 of 2017]. The said writ petition was disposed of by an order of March 20, 2017 directing *inter alia* the Joint Secretary, Government of West Bengal, Department of Panchayat & Rural Development, Kolkata to take steps to grant financial benefit in favour of the petitioner in terms of the memo dated 20th May, 2014 [wrongly printed, as memo is dated 20th May, 2013] read with the memo dated February 25, 2016 in accordance with law.

The present contempt application has been filed by the petitioner alleging non-compliance of the direction of the order of March 20, 2017.

Ms. Dutta, learned advocate appearing for the petitioner states that the petitioner has been in service since 1991 as the gram panchayat secretary and is presently continuing his service. She submits that it is an admitted position that the post of gram panchayat secretary is a sanctioned post and hence his appointment ought to have been regularised and the financial benefits due therefrom, ought to have been disbursed to him, if not by dint of law, certainly by dint of the directions in the order of March 20, 2017.

Mr. Galib, learned advocate appearing for the alleged contemnor, who has since been impleaded as the Additional Secretary, as the post of Joint Secretary in the concerned department is not available, submits that it is an admitted fact that the post of Gram Panchayat Secretary is a sanctioned post. However, the post has at all material time been filled in by a regular employee other than the petitioner herein. In fact, Mr. Galib has referred to paragraph 3 of the affidavit-of-compliance, filed by the Additional Secretary, Panchayats and Rural Development Department, Government of West Bengal which clearly states that there is only one sanctioned post of secretary, which was not vacant at the material time and there was a vacancy in the interregnum period from 1st March, 1993 till 20th August, 1996. Beyond this time line the post was filled in by a regular

employee. Hence, he submits that the directions in the order of 20th March, 2017 has been complied as it is in accordance with law that the petitioner could not have been given benefits as he was not an appointee to a sanctioned vacant post. In fact, Mr. Galib has also referred to an order dated 15th May, 2024 passed by the Additional Secretary to the Government of West Bengal, albeit after some delay intimating the petitioner his request for appointment and consequential financial benefits could not have been acceded to in view of such fact that he was not an appointee to a vacant post i.e., that of secretary, Gram Panchayat.

Ms. Dutta, in reply, has referred to two intimations – one of 20th May, 2014 and the other of 24th June, 2016 whereby the District Panchayat and Rural Development Officer, Purulia has admitted that the petitioner had been appointed to the sanctioned post as the secretary.

I have heard the learned counsel appearing for both the parties.

It is not in dispute that the petitioner had been appointed as the secretary of the gram panchayat and has been functioning since 1993. However, it could not be controverted by the petitioner that he was not the sole appointee to the post. In fact, the Additional Secretary, Panchayats and Rural Development

department, Government of West Bengal has, on oath, in his affidavit-in-compliance stated that the post was filled in by a regular employee, except for the period from 1st March 1993 till 20th August, 1996.

The two memos of 20th May, 2013 and 25th February, 2016 trace their origin from the parent memo, bearing no.9008-F(P), dated September 16, 2011. The parent memo is categorical that any financial implication will be resultant only to those persons who have been appointed to a vacant sanctioned post.

I find from the record that the appointment of the petitioner was to a sanctioned post, but unfortunately in addition to an existing secretary and therefore, not to a vacant one.

The alleged contemnor has considered all facts and relevant notifications and memos and arrive at a reasoned decision in accordance with law on May 15, 2024. This decision had also been communicated to the petitioner, who has not challenged, but has indeed accepted the same.

In view of the aforesstated, it cannot be said that the order of 20th March, 2017 has not been complied or that any contumacious, deliberate or wilful violation thereof has taken place.

In these circumstances aforestated, the contempt petition fails and is dismissed.

Needless to add that in the limited jurisdiction as a court looking into acts of contempt, I have not gone into the petitioner's right to be appointed to the post of secretary, Gram Panchayat, Chhirudih.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Reetobroto Kumar Mitra, J.)