

12.08.2025
Sl. No. 15.
D/L.
Ct No. 42
ab

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 1965 of 2024

**Syed Mosharaf Hossain
Vs.
The State of West Bengal & Ors.**

Mr. K.M.Hossain,
Mr. Kazi Ardan Ali

...for the petitioner

Mr. Jahar Dutta,
Mr. Saikat Sen

...for the State.

1. Supplementary Affidavit filed on behalf of the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks direction upon the respondents to grant notional benefits to the petitioner from the date i.e. 31st August, 2007 on which initial appointment letters were issued to the successful candidates.
3. The petitioner contends that the petitioner, upon being sponsored by the employment exchange against the vacancies under the different panchayat samities in the district of Bardhaman in the year 2005, appeared in a written test held on 8th January, 2006. After qualifying in the written test, the petitioner was called for interview for appointment to the post of '*Panchayat Karmee*' on 13th July, 2007. The petitioner stood first in

the panel prepared for the purpose of appointment as a *Gram Panchayat Karmee* under Ausgram-II Block. However, excepting the petitioner, appointment letters were issued to all other successful candidates on 31st August, 2007. Being aggrieved by such action on the part of the respondent authorities, the petitioner filed a writ petition before this Hon'ble Court being WPA 26137 of 2007 praying for appointment to the post of *Gram Panchayat Karmee*.

4. The said writ petition was disposed of on 25th September, 2008 with the following directions:

“After hearing the learned advocate appearing for the petitioner and considering the averments made in the writ application, I dispose of this application under Article 226 of the Constitution of India by granting liberty to the petitioner to make a representation before the District Panchayat and Rural Development Officer, Burdwan, ventilating his grievances within a period of three weeks from date, and, if such representation is made, the said respondent shall consider and dispose of the same within two months from the date of making such representation, after giving opportunities of hearing to all concerned in the matter and by passing a speaking and reasoned order thereon. The District Panchayat and Rural Development Officer, Burdwan, shall, also, communicate his decision immediately after taking his decision in the matter.”

5. Since the respondent no. 3 failed to comply with such order, a contempt application was filed being CPAN 863 of 2009. After order was passed for personal appearance of respondent no. 3 in WPCRC 305 of 2011, the respondent authorities passed order on 21st September, 2023 and the petitioner has been given appointment.

6. The petitioner is due to retire on 31st March, 2031. However, since for getting pension qualifying service

required is of 10 years, the petitioner has sought for notional benefit from 31st August, 2007.

7. Mr. K. M. Hossain, learned advocate appearing for the petitioner submits that the petitioner stood first in the examination held for the post of *Gram Panchayat Karmee*. Without any cogent reason whatsoever, the respondent authorities did not issue appointment letter to the petitioner. The petitioner was constrained to file a writ petition being WPA 26137 of 2007 wherein direction was issued for consideration of the representation of the petitioner by the respondent authorities. Since no steps were taken, a contempt petition was filed and thereafter the petitioner was given appointment by the respondent authorities. There is no fault on the part of the petitioner. Due to lackadaisical approach of the respondent authorities, the petitioner could get usual appointment in the year 2007 and has been deprived till the year 2023 when ultimately he got his appointment. Since the petitioner would retire in the year 2031, he will not complete 10 years of service as required for grant of pension if calculated from the year 2023. The petitioner should be given notional benefit from 31st August, 2007 from the date on which other successful candidates were given appointment otherwise he will suffer irreparable loss. To buttress his contentions, he relies on the decision of the Hon'ble Supreme Court passed in **Lakshmana Rao**

Yadavalli and Another versus State of Andhra Pradesh and Others, reported in **(2014) 13 SCC 393**.

8. Mr. Saikat Sen, learned advocate for the State leaves the matter to discretion of the Court.

9. It appears from the order dated 21st September, 2023 of respondent no.3, District Panchayat and Rural Development Officer that the Gram Panchayat Recruitment Committee conducted a written test for recruitment of *Gram Panchayat Karmee* and forwarded the list of successful candidates to Sub-Divisional Officer, Sadar (North), Burdwan for interview. The District Level Selection Committee conducted the interview and approval for appointment to all the successful candidates was given except the petitioner by the Executive Officer, Zilla Parishad, Burdwan & Chairman, District Level Selection Committee vide order no.191/Pan/RC dated 29th August, 2007.

10. Admittedly, the petitioner secured first position in Bhalki G.P. under Ausgram-II Block pertaining to such recruitment process. The order dated 21st September, 2023 records that there are no records or documents available in the office of the District Panchayat & Rural Development Officer, Purba Bardhaman to ascertain the reason of non-issuance of appointment letter to the petitioner. In order to get appointment, the petitioner was constrained to file a writ petition. The writ petition was disposed of on 25th September, 2008 granting liberty to the petitioner to make representation before

the authority concerned within three weeks from date and if such representation is made, the authority concerned was directed to dispose of such representation within two months of making such application. From the supplementary affidavit, it appears that such representation was made by the petitioner on 15th December, 2008. Thus, the representation was not made within the period stipulated in the order. Be that as it may, the respondent authorities disposed of such representation giving appointment to the petitioner only in the year 2023 after a lapse of more than 14 years. It is not in dispute that other successful candidates were given appointment from 31st August, 2007. The petitioner cannot be faulted on any ground whatsoever. This Court finds substance in the submission of the learned advocate for the petitioner relying on *Lakshmana Rao Yadavalli (supra)*.

11. Accordingly, the writ petition being **WPA 1965 of 2024** is disposed of by directing the respondent no. 3, the District Panchayat and Rural Development Officer, Purba Bardhaman to give notional benefits to the petitioner from 31st August, 2007. Consequential orders be passed in accordance with law within a period of two weeks from the date of communication of this order. It is clarified that the petitioner shall not be paid any salary for the period he has not worked in such post.

12. Learned Advocate for the petitioner is directed to communicate this order to respondent no. 3, the District Panchayat and Rural Development Officer, Purba Bardhaman for necessary compliance.

13. All connected applications, if any, stand disposed of.

14. Interim order, if any, stands vacated.

15. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

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

(Bivas Pattanayak, J.)