

19.02.2025
DL.126
Court No.32
Sg

WPA 2456 of 2023

Dhrubajyoti Guha Biswas
Vs.
State of West Bengal & Ors.

Ms. Afreen Begum
Ms. Swastika Chaudhury
.... for the petitioner.

Affidavit of service filed on behalf of the petitioner is taken on record. Despite service none appears on behalf of the State.

Petitioner herein filed this writ petition praying for passing order in the nature of mandamus do issue commanding the respondents, their agents, servants, subordinates, employees and/or assignees to allow the petitioner to discharge his service forthwith without any hindrance from any quarter and release all other consequential service benefit of the petitioner thereto including the arrear salary.

The brief facts of the case are that the petitioner was appointed as a computer instructor for West Bengal ICT Project by a private company for a period from September, 4, 2015 till 31st March, 2016. Thereafter his service was further renewed every year from time to time.

The O.S.D & Ex-officio Special Secretary, the Government of West Bengal

issued a letter vide memo No.429-SE (P&B)/ICT-10/2018 dated 10th December, 2019 whereby increased the remuneration of the instructor at a consolidated monthly amount of Rs.8,000/= for the entire project period of 5 years subject to carrying out the duties and responsibilities of the instructor upon the satisfaction of the School Authority/District Inspector concerned. There shall be an annual increment of 3% per annum, if any, otherwise decided in any particular case/cases.

During his service period one complaint was lodged by the Block Development Officer, Balurghat, Dakshin Dinajpur, dated 27th February, 2019, to the Inspector-in-charge of Balurghat Police Station with an allegation of defalcation of Government money with regards to upgrading K-2 beneficiaries to Chingishpur High School against 37 accused persons including the Petitioner.

In view of such complaint, the petitioner was arrested on 17th March, 2022 and finally he was granted bail when Charge sheet has not been submitted within the statutory period of 90 days. According to the petitioner, he was/is innocent and no way involved in any defalcation as alleged because he was working simply as a computer instructor and no role played in defalcation of Government money.

Despite release him on bail, he was not permitted to join in his service as a Computer Instructor in the School.

A memo was issued by the Head Master of Chingishpur High School (H.S.) vide memo No. 250/CHS/HM/HM, dated 28.06.2022 contending therein that he will be allowed to join in the post of ICT instructor upon production of any Government order or court clearance in favour of him for joining after 91 days jail custody.

Thereafter he had made a representation before the Head Master, Chingishpur High School (H.S.), P.O. Chingishpur, District Dakshin Dinajpur, dated Balurghat 2nd August, 2022 seeking prayer to allow to join in the post of ICT in the said school and same was forwarded to the D.I (S.A) but he was not allowed to join his service.

Thereafter, he made a representation before the concerned higher authorities on 12.12.2022. However, his representation was neither considered nor allowed to join. Accordingly, he came before this Court with aforesaid prayer.

Despite the order passed by this Court on 01.03.2023, no affidavit-in-opposition filed by the State as yet. none appears on behalf of the State despite service of notice. No accommodation has been sought for.

Considering the submissions made on behalf of the Petitioner and on perusal of the materials on record, it would be sub-served justice, if the respondent no.6 is directed to consider and decide the case of the petitioner as made out in his representation dated September

12.12.2022, Annexure –P-8 to the writ petition thereto upon affording an opportunity of hearing to the writ petitioner and shall decide the issue with a reasoned order strictly in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent no 6, D.I. of Schools (Secondary Education), Dakshin Dinajpur positively within a period of eight weeks from the date of communication of this order along with writ petition.

While considering the issue, the respondent no.6 shall consider all other documents annexed with the writ petition and their applicability in the case.

It is made clear that this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner will be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon before the respondent no.6

It is made clear further that the respondent no.6 shall pass its reasoned decision in accordance with law independently without being influenced of any observation, whatsoever made herein above.

After the reasoned decision is arrived at by the respondent no.6, shall communicate the same to the petitioner and the respondent no.8, the Headmaster, Chingishpur High School (H.S), Chingishpur, Dakshin Dinajpur, positively

within a further period of one week from the date of the said reasoned decision and the respondent no.8 then in turn shall act accordingly.

On the above terms this writ petition, WPA 2456 of 2023 stands disposed of, without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties after observing all legal formalities.

(Ajay Kumar Gupta, J.)