

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5822 of 2024

Ranbir Singh
-versus
State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Sk. Imtiaj Uddin
...For the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
...For the State

Mr. Abhik Chitta Kundu
...For the School

1. The petitioner was serving as a teacher in a school. He was dismissed from service after it was revealed that the petitioner relied upon a fake certificate in support of his B.Ed. qualification.

2. According to the petitioner, the certificate relied upon by him is original. According to the school, two certificates were submitted by the petitioner, one of which was original and the other fake.

3. The petitioner asserts that the certificate which has been found to be fake was not deposited by him. According to the school, both the certificates were submitted by the petitioner.

4. The school conducted a disciplinary proceeding and after hearing the petitioner, dismissed him from service.

5. The petitioner prays for setting aside the impugned order of dismissal from service.

6. After hearing the submissions made on behalf of both the parties it appears that it is absolutely impossible for the writ Court to decide who submitted the original certificate and when the same was submitted. The service Rule of the petitioner provides for preferring an appeal before the founder body of the school or such body which the governing body may appoint against the decision of dismissal.

7. Learned advocate for the petitioner submits that as per the service Rule, the Director of Public Instruction, West Bengal has the right to call for all relevant papers relating to an employee who was dismissed from service and if the Director is not satisfied with the decision, he may then advise the school authority for reconsideration of the matter. The final decision, however, shall lie with the founder body or such body which the governing body may appoint, as the case may be, except in the case of employees of the institution receiving financial assistance in any form from the State Government. In that case the decision of the Director of Public Instruction, West Bengal shall be final.

8. The present School receives financial assistance from the State Government and accordingly, a final decision may be taken by the Director of Public Instruction, West Bengal.

9. Leaned advocate for the petitioner places reliance on the judgment passed by the Hon'ble Supreme Court on 1st February, 2023 in Civil Appeal No.5393 of 2010 (M/s Godrej Sara Lee Ltd. v. The Excise and Taxation Officer-cum-Assessing Authority & Ors.) wherein the Court held that dismissal of a writ

petition by a High Court on the ground that the petitioner has not availed the alternative remedy without examining whether an exceptional case has been made out for such entertainment would not be proper.

10. In the instant case, the Court is of the considered opinion that the issue in question as to who submitted the fake marksheet of the petitioner and how the same came to be in the records of the petitioner is an absolute disputed question of fact and the Writ Court ought not to decide the same. In fact, the Writ Court does not have the mechanism to decide such disputed question of fact. The Court is, accordingly, not inclined to decide this issue.

11. It will be open for the petitioner to take steps for preferring appeal in accordance with his service Rule.

12. The writ petition stands dismissed.

13. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Amrita Sinha, J.)