

Form No. J(2)
ML. 22
b.r.

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

**Present:-
The Hon'ble Justice Aniruddha Roy**

WPA 10164 of 2025

***Sazida Khatun
-vs-
The State of West Bengal & Ors.***

For the petitioner : Mr. Moniruzzaman
Mr. Jahangir Badsha

For the State-Respondents : Mr. Sk. Md. Galib
Mr. Alok Banerjee

Heard On : 08.08.2025

Judgement on : 08.08.2025

Aniruddha Roy, J. :

Facts:

1 This is the second round of writ litigation arising from the self-same issue.

2. The writ petitioner initially was engaged as **ASHA Karmee** under **Eroali Gram Panchayat, Murshidabad** in the year **2008** on the basis of the relevant

selection process. Due to her illness, the petitioner failed to continue with the service.

3. The writ petitioner submitted a representation dated **March 17, 2017 at page-31** to the writ petition. The said representation, inter alia, states that petitioner was engaged on **February 8, 2008**, then during the period **February 22, 2008** till **February 28, 2008**, she had undergone the necessary training. After the training, she had done some survey works. Then suddenly due to some arterial disease at her limbs, the petitioner started with severe sufferings. The work place, being the relevant sub-centre, was **7 KMs** away from the residence of the petitioner and the roads not being proper, the entire stretch was to be walked upon by the petitioner and ultimately she became unable to walk for the said entire stretch. Finally **she left the job**. The said representation of **March 2017** further reveals that after a prolonged treatment, she became fit. She has two children and the husband had not sufficient financial means. Hence, she made a prayer for resumption of her service.

4. By an order dated **May 16, 2017** passed by a Co-ordinate Bench, **annexure R-3 at page 33** to the writ petition, in the previous writ petition, **WP NO. 13955(W) of 2017**, the appropriate authority was directed to consider the said representation dated **March 17, 2017** and to take a reasoned decision thereupon after granting an opportunity of hearing to the petitioner or her

authorized representative and then to communicate the reasoned decision to the petitioner.

5. A communication dated **November 4, 2017, annexure R-4 at page-35** to the writ petition issued by the Block Medical Officer shows that pursuant to the direction of the said Co-ordinate Bench, the petitioner had placed the relevant documents for the reason she is eligible for joining of the said post of **ASHA**.

6. Ultimately, the Block Medical Officer after granting an opportunity of hearing to the petitioner, has passed the impugned order dated **January 15, 2025, annexure p-6 at page-39** to the writ petition and same has been assailed by the petitioner through the instant writ petition.

7. The relevant observations from the said impugned order are quoted below:-

“ Accordingly, this hearing was held on 02nd January, 2025 at 12P.M. in the office of the chamber of the undersigned with the petitioner Sazida Khatu, W/o-Hafiz Md. Ibrahim of Vill+ Post-Ayrah, P.S./ Khargram, dist-Murshidabad along with Dr. Nityananda Gain, Medical Officer [the then BMOH].

The above mentioned petitioner as well as the then respective BMOH attended the said hearing and filled their attendance.

The petitioner Sazida Khatun has submitted her statement in written about her claim.

It may be noted that I joined as BMOH Khargram on 15.06.2020 and due to non availability of documents/file undersigned can't communicate with the petitioner Sazida Khatun which is inadvertent mistake to comply the order of Honi'ble Justice Samapti Chatterjee of the High Court, Calcutta dated 16.05.2017.

Any documents about her completion of training as well as any performance about her served are not found.

After hearing and read with written statement of petitioner it seems that as per Memo. No. HFW/NRHM/20/06/Pt.11/3019 dated 19.05.14 of the Mission Director, NHM and Secretary to Govt. of West Bengal, she will not be eligible to continue as ASHA as she has untraceable for a long period without any intimation/communication with the authority. So this case is disposed of.

Submissions:

8. Mr. Moniruzzaman, learned advocate appearing for the petitioner submits that at present the writ petitioner is a widow and her children are dependent on her. Referring to the previous order of the Co-ordinate Bench dated **May 16, 2017** and referring to the said communication dated **November 4, 2017 at page-35** to the writ petition, learned counsel submits that upon submission of the relevant documents by the petitioner, the Block Medical Officer was satisfied

and it had taken a decision for joining of the petitioner at the post of **ASHA**. The said communication was accordingly addressed to the Chief Medical Officer of Health, Murshidabad. Learned counsel submits that this communication is the reasoned decision taken by the Block Medical Officer pursuant to the order dated **May 16, 2017** in which, petitioner was found to be eligible for joining for the post of **ASHA** but till date, the petitioner has not been allowed to join.

9. Learned counsel Mr. Moniruzzaman then refers to the said impugned reasoned order dated **January 15, 2025** and referring to Government Memo dated **May 19, 2014**, referred to in the penultimate paragraph therein, submits that the said Government order in its **Clause 2.1.2** provides that if an **ASHA Karmee** had not served at least 50% of the cases reported by the sub-centre in her area of operation, she has to be first served with a show cause before taking any punitive action. In the instant case, no such show cause notice was served upon the petitioner and the impugned order was passed.

10. He further submits that the impugned order has not taken into consideration of the said communication dated **November 4, 2017** and there is no discussion on it that the petitioner has been found to be eligible to join as **ASHA**.

11. In the light of the above submissions, learned counsel for the petitioner submits that the writ petition should be allowed and the impugned order dated

January 15, 2015 should be quashed and consequently the petitioner should be allowed to join as **ASHA**.

12. Md. Galib, learned Senior Government Advocate refers to the said representation of the petitioner dated **March 17, 2017 at page-31** to the writ petition and submits that the petitioner has admitted that after **February 28, 2008** her training being over, she has done few surveys but ultimately immediately thereafter she has left the job on her own volition and did not attend her work place. Since the petitioner herself has left the job there was no question of serving any show cause upon her, because no punitive step was taken by the authority.

13. Referring to the impugned order, learned State counsel submits that opportunity of hearing was granted to the petitioner and after taking due effort, no document could be traced about completion of training by the petitioner as well as any performance of her. The written notes submitted on behalf of the petitioner, **annexure R-5 at page-38** to the writ petition was also considered in course of the hearing.

14. It has been held in the impugned order that petitioner is not eligible to continue as **ASHA** as she was untraceable for a long period without any intimation/communication with the authority.

15. In the light of the above, learned State counsel submits that, the impugned reasoned order is valid, lawful and well versed with reasons. Hence, the same should not be interfered with. He prays for dismissal of the writ petition.

Decision:

16. After considering the rival contentions of the parties and upon perusal of the materials on record, at the threshold, it appears from the representation made by the petitioner dated **March 17, 2017** that the petitioner **had left the job** sometime in **2008**, even though the specific date is not mentioned therein. No material has also been spelt out in the said representation that before leaving the job the petitioner had exchanged communication with her employer.

17. The communication dated **November 4, 2017** merely states that the relevant documents related to **ASHA** recruitment was placed before the Block Medical Officer for the reason that the petitioner is eligible for joining the post of **ASHA**. On a true and proper construction of the said document and on a plain reading thereof, this Court is of the considered view that, the said document cannot be construed to be a decision or a reasoned decision of the authority in terms of the direction of Co-ordinate Bench decision dated **May 17, 2017**.

18. It is pertinent to note that, even if the said document is construed to be a reasoned decision then also the same would be clearly in breach of the order dated **May 16, 2017** as no opportunity of hearing was granted before issuing the said document and, as such, the said document could be bad in law, as a reasoned decision in favour of the petitioner, as contended on behalf of the petitioner. The said document dated **November 4, 2017** is merely a communication that the relevant document was furnished by the petitioner for the reason that she is eligible for joining the post of **ASHA** as was issued by the Block Development Officer addressed to the Chief Medical Officer and not beyond that.

19. On a close scrutiny of the impugned order, it appears to this Court that, the petitioner also has not been able to produce any contrary material to dislodge the finding in the impugned order that no document about the completion of training by the petitioner as well as any performance by her could be traced out or the petitioner was untraceable for a long period without any intimation or communication with the authority.

20. Inasmuch as, since the petitioner once has left the job which she has obtained by virtue of a proper selection process, she cannot claim it back, as she has claimed in this writ petition.

21. Another important fact is that, admittedly the petitioner has left the job in **2008** and from available records, it appears only in **2017** she has made representation which has been considered and rejected on merit, as mentioned and discussed above.

22. In view of the foregoing reasons and discussions, this Court finds no merit in this writ petition.

23. Accordingly, this writ petition, **WPA 10164 of 2025** stands **dismissed**, without any order as to costs.

24. However, this order of dismissal shall not preclude the petitioner to participate in any further or future selection process, if she is otherwise found to be eligible to participate strictly in accordance with law and her participation in the selection process shall be governed strictly on merit, for which this order shall not create any right or equity in favour of the petitioner.

25. Parties to act on the server copy of the order duly down loaded from the official website of this Court.

(Aniruddha Roy, J.)