

18.08.2025
Item No.14
Court No.11
KCP

MAT 960 of 2023
with
IA No. CAN 1 of 2024
with
IA No. CAN 2 of 2024

Purna Chandra Samai
- Versus -
The State of West Bengal & Ors.

Mr. Nilanjan Bhattacharya, Ld. Sr. Adv.
Ms. Sumitra Das.
...for the appellant

Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta.
...for W.B.B.S.E.

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 31st January, 2023 passed by the learned Judge in a writ petition being WPA 12318 of 2016 which was preferred by the writ petitioner/appellant herein challenging, *inter alia*, an order dated 21st June, 2016 passed by the respondent no.5. By the said order, the appellant's claim for regularisation of service was turned down observing, *inter alia*, that no satisfactory documents could be produced to establish that the appellant was engaged against any sanctioned vacant post in the school and that the school authorities had no power to recruit any employee without the approval of the Director of School Education or his authorised representative.

As we have invited the learned advocates appearing for the respective parties to advance their arguments on merits of the matter, the delay in preferring the present appeal is condoned and the application being CAN 1 of 2024 is disposed of.

Ms. Das, learned advocate appearing for the appellant submits that the impugned order was passed by the learned Judge being oblivious of the fact that the appellant did discharge continuous and uninterrupted service as a teaching staff in the Natshal High School (hereinafter referred to as the said school) since the year 1994 and that such service as rendered has not been disputed by the school authorities.

She further argues that the appellant's appointment was not a back door appointment and that as such his claim for regularization ought to have been considered upon upgradation of the said school. Such argument, as urged, was glossed over by the learned Judge and no finding was returned on the same.

Ms. Bhattacharyya, learned advocate enters appearance on behalf of the Board and disputes the contention of Ms. Das.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

From the order impugned it appears that the appellant could not furnish any satisfactory answer relating to inclusion of his name in the District Level Inspection Team (in short, DLIT) report. The learned Judge refused the appellant's prayer for regularization observing that such claim of organizing staff is no more *res integra* in view of the judgment delivered on 6th July, 2018 by a co-ordinate Bench of this Court in MAT 1626 of 2017 [*The District Inspector of Schools (Secondary Education) Burdwan & Ors. -vs- Abdul Barik Shaikh & Ors.*].

The Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution of India cannot direct regularization unless the employee claiming regularization has been appointed in accordance with the prevalent recruitment rules and against sanctioned post. Mere continuance of service on an ad-hoc basis does not entitle the appellant to seek regularization. Issuance of any such direction towards regularization would simply reinvigorate a class of claims which has been shut out permanently.

The learned single Judge upon dealing with the factual issues arrived at specific findings and we do not find any patent error of law in the same.

In view thereof, the appeal and the connected application for appropriate order being CAN 2 of 2024 are dismissed.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)