

16
04.11.2025
Ct. No. 11
rrc

FMA 1127 of 2025
with
IA No. CAN 1 of 2025
(Sudeb Das Vs. The State of West Bengal & Ors.)

Mr. Animesh Mukherjee
Mr. Saptarshi Chakraborty
.... For the appellant/petitioner

Mr. Swapan Kumar Dutta, Ld. Govt. Pldr.
Mr. Rajat Dutta
.... For the State

Mr. Bitasok Banerjee
Ms. Debangana Bhyattacharya
..... For the respondent nos. 3 & 4

This appeal is directed against the judgment dated 6th May, 2025, passed in the writ petition being WPA 16422 of 2024. By the said judgment, the order dated 16th April, 2024, passed by the Principal of Rampurhat College was upheld, and the writ petition was dismissed.

Before embarking upon the implications of the controversy involved in this appeal, it is apposite to advert to the essential facts leading to its filing.

The appellant is a Group-D employee of Rampurhat College. In addition to his regular duties, he was assigned some additional responsibilities as a storekeeper, which is a Group-C post, and he performed these duties until 2018. However, according to the appellant/petitioner, he was not paid the additional remuneration of one-fifth of his salary, despite the

college authorities having utilized his services in the capacity of a Group-C employee.

Initially, the appellant submitted a representation seeking his absorption in a Group-C post in the college. As this claim was not entertained, he approached this Court by filing a writ petition being WP 19333 (W) of 2013, which was disposed of by a coordinate Bench of this Court by an order dated 1st August, 2013, directing the Director of Public Instructions to take a decision on the claim of the petitioner/appellant herein.

However, the Director of Public Instructions, by his order dated 22nd September, 2013, declined to accept the claim of the petitioner. Aggrieved by that order, the petitioner/appellant filed another writ petition, being WP 34017 (W) of 2013, which was disposed of by an order dated 31st July, 2014, directing the Director of School Education to reconsider the case of the petitioner in light of the decisions cited therein. Pursuant thereto, a reasoned order dated 23rd April, 2015, was passed by the Director of School Education. However, the Director of School Education refused to accept the petitioner's claim for regularization in the Group-C post at the college, citing the lack of any provision in the governing rules.

Records reveal that the petitioner/appellant herein ultimately abandoned that claim. Subsequently, he raised a plea that, although he had performed additional duties in the Group-C post at the college since 2018, no additional remuneration had been paid for the same. Citing inaction in making payment of such remuneration, the petitioner/appellant filed another writ petition, being WPA 28007 of 2023.

Records reveal that, by an order dated 28th February, 2024, the aforesaid writ petition was disposed of, granting the petitioner liberty to submit a representation to the Principal of the college within the period stipulated therein. In compliance, the petitioner submitted a representation, which was disposed of by the order impugned in the writ petition. As noted earlier, the writ petition was dismissed, and the learned Single Judge declined to exercise his discretion in favour of the petitioner. Aggrieved by that judgment, the present appeal has been preferred.

Mr. Mukherjee, learned advocate appearing for the petitioner/appellant herein, contends that the petitioner has been performing his additional duties since 2018. He seeks a direction upon the concerned respondent to pay additional remuneration to the extent of one-fifth of the salary attached to the Group-C post at the college, as the petitioner has uninterruptedly performed the additional duties assigned to him to date.

Mr. Mukherjee further submits that two Group-D staff members, namely Supriyo Sen and Janaki Prasad Shaw, have been assigned additional duties in hostile discrimination to the petitioner.

He submits that, in view of the discriminatory practice adopted by the college authorities, a direction should be issued to assign additional duties in favour of the petitioner and to pay one-fifth of the salary attached to the Group-C post at the college.

Such assertion has been strongly disputed by Mr. Banerjee, learned advocate appearing for the college.

Mr. Banerjee further submits that Supriyo Sen has been assigned data entry-related work, whereas Janaki Prasad Shaw has not been assigned any additional duties. He contends that the petitioner cannot claim any lawful right to be assigned additional duties in the Group-C post, as there is no requirement to that effect.

Drawing our attention to an application submitted by the petitioner to the President of the Governing Committee on 5th July, 2023, he submits that, by submitting this application, the petitioner expressed his intention to perform additional duties in the Group-C post. He further submits that the very fact of submitting such an application indicates that the petitioner had not been performing the duties since January 2018.

Heard the learned advocates appearing for the respective parties. Perused the materials on record.

A perusal of the order impugned in this appeal indicates that, following a selection process, the Group-C posts were filled up. Thereafter, by adopting a resolution on 29th December, 2017, the payment of one-fifth of the basic pay was stopped. The petitioner/appellant herein has failed to produce any convincing material to demonstrate that he has performed any additional duties since 2018. Rather, his application dated 5th July, 2023 suggests that he had not performed any such duties and merely expressed his intention to do so. The appellant has also failed to place on record any rule or regulation to show that he has an existing enforceable right to compel the college authority to assign additional duties in his favour. The question of whether the petitioner/appellant has performed any additional duties since January 2018 is a disputed question of fact, requiring

appreciation of documentary or other evidence. Taking note of these aspects, the learned Single Judge correctly refused to exercise his discretion in favour of the petitioner/appellant herein.

We do not find any infirmity or perversity in the judgment impugned in the present appeal; therefore, no interference is warranted.

Accordingly, the appeal and the connected application are dismissed.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.)(Tapabrata Chakraborty, J.)