

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 15457 of 2009

Hafizur Rahaman

-Vs-

The West Bengal State Electricity Distribution Company Ltd. & Ors.

For the Petitioner : Mr. Priyabrata Batabyal

For the WBSEDCL/
Respondent No.1 : Mr. Sujit Sankar Koley

Heard on : 13.03.2025, 28.03.2025, 25.06.2025

Judgment on : 28.08.2025

Ananya Bandyopadhyay, J.:-

1. The petitioner claimed to have been appointed on *ad hoc* basis as Majdoor on Master Roll Establishment on daily wages of Rs.5.22/- until further orders along with 24 candidates by Office Order No.Estbt/Adhoc/Class-IV/199 dated 23.05.1973 by the Secretary of erstwhile West Bengal State Electricity Board now known as West Bengal State Electricity Distribution Company Limited.
2. The engagement letter was not received by the petitioner owing to wrong postal address for the sake of communication other candidates received their appointment letters. On enquiry from the office of the respondent no.3, the Divisional Engineer of Murshidabad and from one Ansur Hossain of Village-Simulia, P.O.- Kurulia, District.- Murshidabad, the petitioner learnt to have

been appointed on *ad hoc* basis in the year 1973 as a Majdoor on Master Roll Establishment on daily wages. A copy of the list of appointments of Majdoor on Master Roll Establishment on *ad hoc* basis on daily wages obtained from the said Ansur Hossain included the name of the petitioner.

3. The petitioner stated the appointment letter of the petitioner was not despatched to his correct address by the respondent authorities capriciously depriving the petitioner from being appointed as aforesaid.
4. The petitioner's representation to the authority concerned on or about 6th March, 1980 was disregarded compelling him to file a writ petition being C.O. No.10411(W) of 1982.
5. On 17.07.1991, the Hon'ble Court dismissed the aforesaid writ petition observing the basic grievance of the petitioner was after working for the period between 23rd May, 1973 to June, 1980, the petitioner was refused to join his duty as Majdoor on Master Roll. The Hon'ble Court opined the said fact did not call for any interference and rejected the writ application.
6. The petitioner preferred an appeal against the aforesaid judgment/order dated 17.07.1991 passed by the Hon'ble Court in C.O. No.10411(W) of 1982 being F.M.A. No.49 of 1997 arising out of M.A.T. No.3483 of 1991 before the Hon'ble Court. The aforesaid mandamus appeal had been finally disposed of on 10.12.1997 by setting aside the impugned order dated 17.07.1991 under challenge in the appeal and also disposed of the writ application in the following manner:-

"The writ petitioner/appellant is given liberty to make a fresh representation to the authority concerned, and the authority concerned is

to consider the same in accordance with the law, after hearing the petitioner and also considering the fact that the petitioner was actually appointed on ad-hoc basis as a Majdoor on Master Roll Establishment on daily wages in the year 1973 positively within 8 weeks from the date of receipt of such representation and we further make it clear that if was due to any laches on the part of the authority concerned that the petitioner did not receive the appointment letter, the authority concerned should give appointment to the writ petitioner to suitable post, condoning the age bar, if there be any, forthwith. We further make it clear that the time limit so fixed above, is peremptory and mandatory.”

7. In compliance with the aforesaid order dated 10.12.1997 of this Hon’ble Court, the Secretary of the West Bengal State Electricity Board now known as West Bengal State Electricity Distribution Company Limited being the respondent no.1 had conducted a personal hearing of the petitioner on 09.03.1998 at 03:00 P.M. in his chamber. The petitioner received a Memo No.Estb/Legal/4(89)/1103 dated 02.04.1989 enclosing the reasoned order passed by the respondent no.1 wherein the prayer of the petitioner was rejected.
8. The reasoned order as aforesaid reflected that the address mentioned in the appointment letter was more or less correct. The petitioner contended the authority ignored the address mentioned in the appointment letter was devoid of the name of specific post office except the name of the village. Furthermore, in the reasoned order it was mentioned there was delay of nine years to approach the Hon’ble High Court but unfortunately, the authority

forgot that it was the absolute discretion of the Hon'ble High Court to accept or not to accept the prayer of the petitioner even after lapse of nine years. As such, the reasoned order being vague and baseless was liable to be set aside.

9. In the reasoned order, it was further mentioned that the petitioner failed to submit any representation alleging his grievances of not receiving the appointment letter. The observation of the authority was also an example of non-application of mind inasmuch as it had been mentioned in the judgment of the Hon'ble Appeal Court that the writ petitioner had submitted his representation on 6th March, 1980 and that apart the petitioner had submitted a representation on 23.05.1977 alleging his grievances.
10. The petitioner stated to belong to below the category of Poverty Line. He had no landed property and worked as an agricultural labourer. He failed to afford expenses to conduct the hearing of the writ petition and depended on the middle man who acted as his agent for filling this writ petition. He handed over the papers, vakalatnama, litigation cost to the agent in the month of May, 1998. He could not arrange the financial means for the entire litigation cost so the agent did not take effective step and ultimately in the month of May, 2009, he delivered some money to his Advocate and such process caused delay of delay of ten years of moving this writ petition.
11. The Learned Advocate representing the petitioner submitted as follows:-
 - i. The petitioner was appointed on an *ad hoc* basis as Majdoor on Master Roll Establishment on daily wages of Rs.5.22/- until further orders along with 24 candidates by an office order dated 23.05.1973 by the respondent no.1.

- ii. The engagement letter was never handed over or reached to the petitioner due to wrong address in the communication letter where he had been appointed on *ad hoc* basis.
- iii. On enquiry, from the office of the respondent no.3 and from one Ansur Hossain, the petitioner came to know that he was also appointed as a Majdoor.
- iv. The petitioner was also confirmed of the said fact after going through a copy of the list of appointment of Majdoor on Master Roll Establishment which he obtained from the said Ansur Hossain.
- v. The petitioner moved one writ petition before the Hon'ble Court which had been dismissed and challenging that order, the petitioner preferred a mandamus appeal which had been allowed and directed the respondent no.1 to consider the case of the petitioner by passing a reasoned order.
- vi. The respondent no.1 passed a reasoned order rejecting the prayer of the petitioner on the ground that the address mentioned in the appointment letter was more or less correct.
- vii. It had been ignored by the authority that the address mentioned in the appointment letter, there was no mention of the post office except the name of the village.
- viii. The respondent no.1 rejected the prayer of the petitioner also on the ground that there had been delay of nine years to approach the Hon'ble High Court but unfortunately the authority forgot that it

was the absolute discretion of the Hon'ble Court to accept or not to accept the prayer of the petitioner even after lapse of nine years.

- ix. The concerned authority had no right to question about the delay of nine years to approach the Hon'ble High Court where the Hon'ble High Court itself had allowed the case of the petitioner and had condoned the delay of nine years for filing this writ petition as such the reasoned order had no legs to stand and was liable to be set aside.
- x. There had been violation of Article 14 and 16(1) of the Constitution of India.
- xi. The petitioner was physically fit, mentally alert and capable for discharging duty as a Majdoor.

12. The Learned Advocate representing the respondents submitted an inordinate and vaguely explained delay in filing the writ petition by the petitioner attaining the age of 73 years precluded him from claiming fresh appointment, since in his personal hearing the petitioner admitted the postal address to be more or less correct. The petitioner filed the instant writ petition after 11 years from the date of passing the reasoned order on 25.03.1998. The petitioner deliberately did not join as Majdoor as aforesaid and subsequently prevaricated the entire episode to frustrate and confound the respondent authority to the subservient in considering his frivolous claim.

13. The reasoned order dated 25.03.1998, *inter alia*, stated as follows:-

"I heard Sri Rahaman. Perused the documents placed before me. Considered.

It has been confirmed by Sri Rahaman that the address appearing in the Order dated – 23rd May, 1973 of the Board offering appointment to him for Class-IV Post is more or less correct. There is no reason why such order was not received by Sri Rahaman, when all other incumbents under the said Order duly received their respective copy and joined in Board's service pursuant to such Order. I am told that very many Orders, both for Class – III and Class – IV posts were issued by the Board at the relevant point of time and there is no such case where the incumbent is approaching the Hon'ble High Court for such appointment on the plea that he has not received the appointment order. Besides, there is no reason why Sri Rahaman waited for long 9 years for moving the Hon'ble High Court for redressal of his grievance. It is confirmed by Sri Rahaman that during these long years he never approached the Secretary of the Board, who issued the appointment order, in this connection and he could not also satisfy me with the reasons thereof. Be that as it may; it is not possible to consider afresh the employment of Sri Rahaman in the facts and circumstances.

Accordingly, I depose of the matter by rejecting the prayer of Sri Rahaman for having any appointment in the Board."

14. Peculiarly to the exception of the present petitioner the other candidates received their individual appointment letter and joined as Majdoors as aforesaid without any plausible objection or legal infirmity. The petitioner did not endeavour to approach the concerned Secretary at least out of

inquisitiveness to be aware of his candidature. Anyone applying for any job would naturally be anxious and eager to be certain of the result or outcome pertaining to appointment. The demeanour of the petitioner raised suspicion of his conduct to subterfuge his intentional and conscious decision to refrain from joining as a Majdoor and cannot claim the said appointment without convincing proof of non-receipt of the appointment letter.

15. Moreover, the affidavit-in-reply filed on behalf of the petitioner to grant employment to his daughter as mentioned therein is figmentary and against legal norms.
16. In view of the above discussions, the instant writ petition WPA 15457 of 2009 is dismissed.
17. There is no order as to costs.
18. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)