

12.06.2025.
Item No. 4.
Court No. 13
ap

(Assigned Matter)

M.A.T. No. 1648 of 2022
With
I.A. No. CAN 1 of 2022
And
I.A. No. CAN 2 of 2023

Akhilesh Panda
Versus
Bishnupada Das & Ors.

Mr. Santipada Pahari.

...For the appellant.

Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal.

...For the State.

Mr. Saktipada Jana,
Mrs. Sudipta Pramanik.

...For the respondent no.1.

Mr. Himadri Barua,
Mr. B. Das.

...For the respondent nos.7 & 8.

1. The subject matter of challenge is a judgment and order dated 15th September, 2022 passed by a learned Single Judge of this Court in three several writ petitions.

2. The first writ petition was W.P.A. No. 14663 of 2011 (Bishnupada Das – Vs. – The State of West Bengal & Ors.). The prayer in the writ petition was a direction upon the District Inspector of Schools (SE), Purba Medinipur to consider the approval of panel for selection of Group-D Staff in Bahitrakunda High School, District – Purba Medinipur. The second writ petition was W.P.A. No. 2355 of 2012 (Pulin Bera – Vs. – The State of West Bengal & Ors.) filed challenging selection of Bishnupada Das and the selection process

in question. The third writ petition being W.P.A. No. 3811 of 2011 (Akhilesh Panda – Vs. – The State of West Bengal & Ors.) was also filed challenging the selection process and the selection of Bishnupada Das for Group-“D” post in the said School.

3. The admitted position is that both Pulin Bera and Akhilesh Panda did not participate in the selection process. They claimed to have attended the said School on the date fixed for interview but walked out finding that the Managing Committee had allegedly pre-decided the appointment of Bishnupada Das and that there was no member of Panchayat in the selection panel. The said two writ petitions ought to have been dismissed in limine on the ground that a person, who does not participate in the selection process is not entitled to challenge it.

4. Be that as it may, the learned Single Judge went on to consider the arguments on merits advanced by the learned Counsel for the appellant.

5. It appears that in an earlier writ petition filed by Bishnupada Das being W.P. No. 23264 (W) of 2010, another Single Bench of this Court vide order dated 1st December, 2010 had observed that the allegations of papers of selection process not being traced out which was the subject matter of a pending writ petition being W.P.A. No. 3024 (W) of 2009 was dismissed has since been resolved. A copy of the panel forwarded by the said School was contained in the said writ petition.

6. It was directed by the said order dated 1st December, 2010 (supra) that the District Inspector of Schools (SE), Purba Medinipur should proceed to decide whether the panel sent by the said School pursuant to the selection process ought to be approved or not. The decision was to be made within a period of one month from the date of the said order. It was made clear in the last paragraph of the order that since the interview of candidates was held on 22nd February, 2009, West Bengal School Service Commission (Selection for Appointment to the Post of Non-Teaching Staff) Rules, 2009 and Government Orders dated 22.07.2008 and 13.05.2010 would not apply to the selection process.

7. Pursuant to the said order dated 1st December, 2010, the District Inspector of Schools (SE), Purba Medinipur approved the panel, sent by the School dated 25th March, 2009 under Memo No.110/2009. The District Inspector of Schools (SE), Purba Medinipur further recorded that the permission to go ahead with the selection process was issued by his Office on 12th January, 2009.

8. In the backdrop of the above, the Writ Court cannot get into a roving enquiry as regards the existence or otherwise of the papers in the Office of the District Inspector of Schools (SE), Purba Medinipur.

9. The argument of the appellant that Bishnupada Das was overage does not appear to have been pressed

before the learned Single Judge. There is no recording to that effect by the learned Single Judge.

10. In the backdrop of the above and also considering the fact that the selection process was undertaken in February, 2009 and the writ petitions challenging the same by Pulin Bera in 2012 and Akhilesh Panda in 2011, the writ petitions were even otherwise barred by delay and laches.

11. The learned Single Judge has unnecessarily gone on to deal with in details on each of the arguments advanced by Pulin Bera and Akhilesh Panda.

12. The requirement by previous benches of a report from the Office of the District Inspector of Schools (SE), Purba Medinipur is not considered necessary any further in the light of the discussion above.

13. Since the writ petition was moved by Bishnupada Das in the year 2011 itself when the selection process was completed and panel was approved pursuant to the order dated 1st December, 2020, this Court is of the view that the appointment of Bishnupada Das, shall notionally be reckoned from the date of approval of the panel i.e. 17th February, 2011. He shall not be entitled to any monetary compensation or benefits for the said period till the date he joins service.

14. The length of service and other benefits shall, however, be notionally calculated with effect from 17th February, 2011 and the salary and emoluments payable to the said Bishnupada Das shall be effective from the date of his joining the said School. The notional calculation shall include all revision of pay scale and allowances and the current applicable pay scale as if Bishnupada Das was appointed with effect from 17th February, 2011 and shall be made available from the date of his joining.

15. Needless to mention that the service of Bishnupada Das shall commence from 17th February, 2011.

16. The School shall issue appointment letter in favour of Bishnupada Das within a week from the date of communication of a copy of this order.

17. For the reasons stated hereinabove, the order of the learned Single Judge is upheld. M.A.T. No. 1648 of 2022 shall stand dismissed.

18. In view of dismissal of the main appeal itself, all the pending connected applications are dismissed.

19. There will be no order as to costs.

20. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)