

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 24621 of 2024

Fatema Khatun

Versus

The State of West Bengal & Ors.

For the petitioner : Mr. Sunit Kumar Roy.

For the State : Mr. Bhaskar Prasad Vaisya, Id. A.G.P.,
Mr. Pinaki Bhattacharya.

For the Mission : Md., Sarwar Jahan,
Director Mr. Mousumi Mitra,
Ms. Tapati Sarkar.

Lastly heard on : 13.01.2025

Judgment on : 13.01.2025

Jay Sengupta, J:

This is an application *inter alia*, praying for direction upon the respondent authorities for payment of regular as well as arrear honorarium, in view of the engagement of the petitioner as Sahayika of Jiyagachi Sishu Siksha Kendra, Jiyagachi Dhangra, Chanchal II, District Malda with effect from June 26, 2010 and for direction to allow the petitioner to rejoin the post of 3rd Sahayika at the said Sishu Siksha Kendra (hereinafter, referred to as “SSK”).

Learned counsel appearing for the petitioner submits as follows. The Managing Committee of the S.S.K. initiated a process for appointment of Sahayika

on February 22, 2010. On February 30, 20-10, the Managing Committee requested the BDO to give permission for the same. On April 12, 2010, the BDO granted permission. Accordingly, the petitioner and others participated in the interview process. In fact, the petitioner obtained a high rank in the panel for appointment for the post of Sahayika. The panel was published on April 28, 2010. Thereafter, the Sthayee Samity of the Panchayat Samity sanctioned the same on May 4, 2010. On June 26, 2010, the Managing Committee of the S.S.K. executed an agreement and the petitioner was appointed to the post of Sahayika. Since then, she has been rendering service. But, she did not receive a penny for the same. Later on, she was told that due to the pendency of a writ petition challenging such appointment, the honorarium could not be paid. The writ petition was filed by another person, but the same was dismissed. Thereafter, an appeal preferred against the said writ petition was also dismissed (in 2024). All these prompted the petitioner to approach this Court, although she had made representations earlier in the years 2010, 2012 and 2023. The contention of the respondent authorities that a new policy for engagement of Sahayikas came into operation on April 23, 2010 is of no consequence as the process for selection of the petitioner was initiated much before. The initiation was done by the Managing Committee of the S.S.K. and due permission was granted by the BDO. By the time, a new policy came, interview of the petitioner had already taken place.

Learned counsel appearing on behalf of the respondent no. 3 denies the allegations and submits as follows. The payment of honorarium to the petitioner was stopped because of earlier pendency of the writ petition. However, the same has been dismissed now. But, by the time the petitioner was formally engaged, a new policy for recruitment of Sahayikas had come.

Learned counsel appearing on behalf of the State adopts the submissions advanced by on behalf of the respondent no. 3.

Heard the learned counsels for the parties and perused the records and affidavits filed by the respective parties.

The issue of pendency of another writ petition cannot come in the way of payment of honorarium to the petitioner anymore because the said writ petition has admittedly been dismissed. Even an appeal preferred by the writ petitioner has been dismissed.

So far as the issue of a new policy of the State Government for appointment of Sahayika coming in from the year of 2010 is concerned, it is an admitted position that the same was much after the initiation of process for appointment of the present petitioner. While a new policy came on April 23, 2010, the Managing Committee of the concerned S.S.K. had initiated the process for appointment on February 22, 2010. Upon their requests, the concerned BDO had given necessary permission on April 12, 2010. Thereafter, the selection process was undertaken including the interview.

Therefore, the subsequent promulgation of a new policy would not affect the appointment of the petitioner as Sahayika following due norms as contained in the earlier policy that existed at the relevant time.

In view of the above, the respondent authority would allow the petitioner to rejoin the S.S.K. as a Sahayika and continue with the engagement as per agreed terms. The payment of honorarium to the petitioner shall commence from the date of rejoining. For the earlier period for which the petitioner had rendered service in such capacity at the S.S.K., necessary arrears of the honorarium shall be paid by the respondent authorities at the earliest.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

D.hira