

14-11-2025
ct no. 10
Sl.1
RP

WPA 24030 of 2007
With
Old No.CAN 9062/2013, CAN 2/2014(old
No. CAN 567 of 2014)
Rajendra Prasad Dolai
-Versus-
State of West Bengal & Ors.

Mr.Tarun Kr. Das,
Mr.Pratap Kr. Yadav

...for the petitioner.

Mr. Santanu Kr. Mitra,Govt.Adv.,
Mr. Amartya Pal

...for the State

1. The parties are represented through their respective Counsels.
2. The petitioner submits that by an order dated 29.11.2007 this Co-ordinate Bench of this Hon'ble Court observes as follows:

"The concerned responder authorities to permit the writ petitioner to appear at the interview for filling up of the post of Clerk of Agricultural High School, P.O. Deulpota, District- Purba Medinipur which is scheduled to be held on 07.12.2007 or on any rescheduled date, provided of course, he is otherwise eligible. However, this will create no equity in favour of the writ petitioner in getting the employment, and the same shall abide by the result of the instant writ application."

3. Thereafter, in pursuance of the said order dated 29.1.2007 the authority concerned had issued a letter of appointment dated 28.12.2007 in the post of clerk requesting

thereby to join the post within 7 days from the receipt of the letter dated 28.12.2007 the relevant letter is reproduced below:

“As per panel approved by the District Inspector of Schools, Purba Medinipur (His Memo No. 1580-s date 20.12.07) against the permanent vacancy of a clerk (reserved for Scheduled Caste) in the above named school the undersigned is to inform you that you are hereby appointed in the post on usual terms and conditions and pay scale as admissible as per Government rules.

You will be on probation for two years in your service and your appointment is subject to the approval of the District Inspector of Schools, Purba Medinipur.

You are to continue to serve this institution subject to the terms and conditions laid down in the School Code application to aided school.]

You are requested to join the post within 7 days from the receipt of this letter.”

4. Subsequently, on 31.12.2007 District Inspector of School, Purba Medinipur being the respondent no. 3 herein issued an approval of appointment to the petitioner with a rider which is reproduced below :-

“The approval of appointment of Rajendra Prasad Dolai M.P. clerk is hereby approved abide by the result of the W.P.No.- 24030(w) of 2007.”

5. The petitioner submits that since the rider speaks of the approval subject to the result of the writ petition No. WPA 24030 of 2007, the petitioner filed a CAN application being CAN 1/2013 (Old No.CAN 9062 of 2013 praying, inter alia, for disposal of the writ petition by directing the respondent no. 3 to delete the conditions imposed in the approval of the appointment vide memo no. 31.12.2007.

Thereafter, CAN 1/2013 was dismissed for default on 07.10.2013.

6. Thereafter, the petitioner submits and prays to allowed the CAN applications since the issue involved herein has already been declared *ultra vires* by Hon'ble Justice Soumitra Pal in the in case of ***Prabir Kumar Maji vs. State of West Bengal & Ors (W.P.No. 927of 2008)*** with ***Arun Kumar Sarkar vs. State of West Bengal &Ors.(W.P.No. 1784 of 2008)*** with ***Mangalmoy Bandyopadhyay vs. State of West Bengal & Ors. (W.P. No. 3377 of 2008)*** reported in ***2008 (2) CHN.***
7. The State respondents submit that already the prayer made in the writ petition has become infructuous since the rule has been repealed and new Act has come into force.
8. After hearing the rival contentions of the parties, and upon considering the materials available on record I am of the considered view, that the rider appended to the memo dated 31.12.2007 that the approval of the appointment of the petitioner will abide by the result of that writ petition. From the restoration application being CAN 2/2014, I find that the reasons assigned in the paragraph nos. 3 and 4 are sufficiently explained for restoring the said CAN 1/2013 to its main file.

9. In view of the above, CAN 2 of 2014 is allowed and CAN 1 of 2013 is restored to the main file.
10. The prayer made in the writ petition has become infructuous and lost its force. Therefore, there remains no question of further consideration of the merit of the case since rule under challenge had been repealed and New Act has come into force.
11. The instant writ petition along with the connected applications are disposed of directing inter alia, the authority concerned being the respondent No. 3 hereinto revisit the issue of the approval of the appointment of the petitioner dated 31.07.2007 in the light of the judgment as the judgment delivered by Justice Soumitra Pal as His Lordship then was, in the case of Prabir Kumar Maji and the State of West Bengal and Ors. specially considering with regard to the rider mentioned in the memo dated 31.07.2007. The respondent no. 3 shall consider the case of the writ petitioner as expeditiously as possible in accordance with law preferably within a period of 60 days from the date of order and communicate the said decision to the concerned parties within a week thereafter.

(Smita Das De, J.)