

29th January, 2026
(D/L No.07)
Ct. No.4
(SKB)

W.P.S.T.47 of 2020

Amal Kumar Jana
Versus
The State of West Bengal and others

Ms. Ananya Neogi,
Ms. Anushka Ghosh
... for the petitioner.

Mr. Tapan Kumar Mukherjee, Id. AGP,
Mr. Somnath Naskar
... for the State.

1. Heard the learned advocate for the petitioner and the learned advocate for the State.
2. The writ petitioner was engaged by an order issued by the Superintendent of Police, North 24 Parganas dated 16.08.2004 as a "Contingent Menial". He was engaged on a remuneration of Rs.700/- per month. The order of engagement contains a stipulation that such engagement is not to be repeated in future without any office order.
3. The learned advocate for the petitioner is not in a position to point out any provision in any rule/statute from which the Superintendent of Police could derive the source of power for making such engagement. The engagement,

however, continued till the year 2016. In the year 2016, the petitioner was apprehended with some documents based on which it was opined that he along with some others was facilitating forging of documents for procurement of Indian Passport.

4. On the basis of such charges, Barasat Police Station Case No.612 of 2016 was lodged. The petitioner was taken into custody on 28.07.2016. He was enlarged on bail on 15.09.2016. The petitioner, thereafter, has been demobilized by an order issued by the Superintendent of Police, North 24 Parganas on 03.12.2016. The demobilization order was not challenged by the petitioner diligently. The same was put to challenge by filing an Original Application two years thereafter, before the West Bengal Administrative Tribunal (in short 'Tribunal'). The Original Application being O.A.974 of 2018 filed by the writ petitioner was dismissed by the Tribunal by an order dated 22.07.2019.

5. The Tribunal found the application to be a belated application. Taking note of the serious allegations against the petitioner and the nature of his existence in the department, the Tribunal

rejected the Original Application. The said order dated 22.07.2019 is put to challenge in the present proceeding.

6. The learned advocate for the petitioner submits that no charge memo was issued, no enquiry was conducted and no opportunity of hearing was allowed to the petitioner as per the procedural prescription contained in the West Bengal Service Rules, Part-I, 1971 and West Bengal Service(Classification, Control and Appeal) Rules, 1971.
7. The learned AGP has appeared on behalf of the State and submitted that the petitioner was never a government employee and, therefore, claim for protection of the procedure under the above Rules is without any basis and untenable.
8. We have considered the rival submissions and the records.
9. We find that the original application was filed belatedly. We also find force in submission of the learned AGP that the Rules referred to above, are not applicable to the applicant/writ petitioner, since he was never a government employee.
10. We, therefore, find no infirmity in the decision of the Tribunal rejecting the original

application, requiring exercise of jurisdiction under Article 226 of the Constitution of India. We consider it necessary to observe that the present order may not be taken as an expression of this court's opinion on the criminal charges in the above noted FIR.

11. The writ petition is, accordingly, dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)