
(2006) 07 CAL CK 0072
In the Calcutta High Court
Case No : Writ Petition 9788 (W) of 2006

Anjan Kumar Paria

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 19-07-2006

Acts Referred:

Citation : (2006) 2 ILR (Cal) 363

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Uday Chandra Jha and Golam Mohiuddin, for the Appellant; Atashi Gupta, for State and Jaytosh Majumdar, for Respondents 5 to 8, for the Respondent

Final Decision : Dismissed

Judgement

Jayanta Kumar Biswas, J.—This writ petition should be dismissed summarily on the ground that it has not been presented properly. In the classification sheet it has not been mentioned under which group of the classification list it will fall. Counsel says that this is a group-II matter, and that the subject matter will fall in head "c" of group-II. I am of the view that for the technical defect, I should not dismiss the writ petition. Hence I order that the classification sheet shall be corrected at once by incorporating the group and head thereof. Steps shall be taken immediately.

2. The Petitioner is aggrieved by the decision of the Director of School Education, West Bengal rejecting his claim that as an organizing member of the teaching staff of Bararam Maiti Barh Junior High School, Purba Medinipur he is entitled to get approval to his appointment as a teacher in the school that was recognized by the West Bengal Board of Secondary Education as a four class junior High School with effect from May 1, 1991. Previously the school had been recognized as a two class junior High School with effect from January 1, 1971.

3. The Petitioner claimed before the authority that the managing committee of

the school appointed him as a teacher by issuing the appointment letter dated January 15, 1986. His further case is that the attendance register and other records of the unrecognized school would support his case that at the date of inspection of the school by the district level inspecting team (in connection with the process initiated by the authorities for examining the question of granting recognition to it as a four class junior High School) he was an existing teacher in the school.

4. He moved this Court in 1992. Certain order was made directing the district inspector of schools to submit report. By order dated September 21, 2004 his writ petition with the other connected writ petitions were disposed of directing the director of school education to look into the matter. The director was directed to give a decision after hearing the interested parties. This is how the decision impugned in the writ petition has come to be given.

5. The principal ground on which the director disbelieved the claim of the Petitioner is that in the report of the district level inspecting team leading to recognition of the school the name of the Petitioner was not mentioned. The school was inspected on December 11, 1991. According to the government orders existing at that point of time before considering the question of granting recognition or upgrading an already recognized school, the district level inspecting team was to inspect the school concerned for ascertaining whether it fulfilled all the conditions for getting recognition.

6. It is not disputed that according to the government orders existing at the relevant point of time a member of the staff of the unrecognized school would have been entitled to ask the authorities to approve his appointment as an organizing member of the staff, only if his name figured in the report of the district level inspecting team as a member of the staff of the unrecognized school at the date of inspection.

7. Here the director recorded categorical finding that at the date of inspecting the Petitioner's name was not recorded in the report. According to the government circulars and orders which were in operation at the relevant point of time, the report of the district level inspecting team was to be forwarded to the director of school education, the department of education of the state government, and the board that was to consider the question of granting recognition on the basis of the views given by the director and recommendation, if any, recorded by the State Government. Hence the director was supposed to have a copy of the report in his office.

8. In the writ petition no case has been made out that the director recorded an incorrect finding of fact that the Petitioner's name did not figure in the report submitted by the district level inspecting team. Counsel says that though no such case has been made out in the writ petition, he wants the director to produce a copy of the report before this Court. He says that if it appears from the report that the name of the Petitioner was not recorded by the team, then he would

accept whatever punishment this Court proposes to give.

9. I do not find any reason to. oblige the counsel, when no such case has been made out by the writ Petitioner in the writ petition as argued by counsel before me for an order directing the director to produce the report of the inspecting team. I do not find any reason whatsoever to permit the counsel to speculate. The director has recorded a categorical finding that the Petitioner was not an organizing teacher. In exercise of my writ powers, I do not find any reason to interfere with such finding of fact.

10. That apart, as the law exists today, in view of the West Bengal School Service Commission Act, 1997 and the West Bengal Schools (Expenditure of Control) Act, 2005, no one can be appointed in the school as a teacher, unless one is duly selected, empanelled and recommended by the school service commission. In view of the provisions in the 2005 Act all previous government orders, circulars and notifications (they were not statutory at any point of time) have simply stood abrogated/Hence at the present movement on the basis of the government orders and circulars which existed in the past, the Petitioner is riot entitled to seek an appointment in the school as a teacher.

11. For these reasons, I am unable to give any relief to the Petitioner. The writ petition is accordingly dismissed. There shall be no order for costs in it.

Urgent certified xerox copy of this order and also copy authenticated by A.R. (C) or A.C.O. shall be supplied to the parties, if applied for.