

(2015) 07 CAL CK 0001
In the Calcutta High Court

Case No : F.M.A. No. 649 of 2015 and C.A.N. No. 10986 of 2014

Mainuddin Ali

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 14-07-2015

Acts Referred:

Citation : (2015) 3 CHN 475

Hon'ble Judges : P.K. Chattopadhyay and Ishan Chandra Das, JJ.

Bench : Division Bench

Advocate : Rajendra Banerjee, for the Appellant; Joytosh Majumdar and Pinaki Dhole, for the Respondent

Final Decision : Dismissed

Judgement

1. This application has been filed in connection with the appeal preferred from the order dated 5th August, 2014 whereby a learned Judge of this Court dismissed the writ petition on merits. It appears from the records that the panel in question prepared by the selection Committee was not initially approved by the District Inspector of Schools (S.E.), Birbhum. Challenging the action of the District Inspector of Schools (S.E.) concerned, a writ petition was filed on behalf of the appellant/petitioner herein and a learned Judge of this Court directed the said District Inspector of Schools (S.E.) concerned to grant approval to the panel in question in accordance with law within a period of four weeks from the date of communication of the said order. The District Inspector of Schools (S.E.) concerned thereafter considered the panel in accordance with law and approved the same by the Memo, dated July 25, 2013 and immediately thereafter, the Managing Committee of the said School offered appointment to the appellant/petitioner and the said appellant/petitioner accepted the offer of appointment and joined the post.

2. It has been submitted on behalf of the appellant/petitioner that the panel should have been approved by the District Inspector of Schools (S.E.) concerned immediately after submission of the same by the Managing Committee.

3. In the present case, the panel submitted by the Managing Committee was initially considered by the District Inspector of Schools (S.E.) concerned within a reasonable time and the said District Inspector of Schools (S.E.) concerned refused to grant any approval to the said panel. Subsequently, the panel was approved pursuant to the specific direction passed by a learned Judge of this Court. Therefore, it cannot be said that the approval of the panel was unnecessarily withheld by the District Inspector of Schools (S.E.) concerned.

4. The learned Single Judge did not approve the earlier decision of the District Inspector of Schools (S.E.) concerned regarding non-approval of the panel in question and directed the District Inspector of Schools (S.E.) concerned to accord approval to the panel in accordance with law within the stipulated time which the District Inspector of Schools (S.E.) concerned duly complied with. The appellant/petitioner cannot claim appointment before approval of the panel and in the present case the petitioner was offered appointment only after approval of the panel and pursuant to the said offer, the appellant/petitioner joined the post and is receiving salary as a regular Group-"D" staff in the approved scale of pay. Even if the appellant/petitioner was working in the said school, the same cannot be regarded as a valid service rendered by him in the vacant post. The appellant/petitioner herein can be appointed to the post in question only after participating in the selection process and specially after approval of the panel by the District Inspector of Schools (S.E.) concerned. There is no dispute that after approval of the panel, the appellant/petitioner was offered appointment by the Managing Committee and the said appellant/petitioner pursuant to the said offer of appointment joined the service and receiving salary regularly. The learned Single Judge never directed the District Inspector of Schools (SE) concerned to approve the panel from any earlier date.

5. For the aforementioned reasons, we are of the opinion that the learned Single Judge has properly decided the issues raised in the writ petition and passed appropriate order. We do not find any error and/or infirmity in the impugned decision of the learned Single Judge. Therefore, we dismiss both the application as well as the appeal upon treating the said appeal as on day's list.

6. In the facts of the present case, there will be no order as to costs. Let a xerox plain copy of this order, duly countersigned by the Assistant Registrar (Court), be given to the parties on usual undertaking.