
(2013) 04 CAL CK 0091
In the Calcutta High Court
Case No : F.M.A. 135 of 2013

Mamata Mahato and Others

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 11-04-2013

Acts Referred:

Citation : (2013) 3 CHN 577 : (2013) LabIC 2336 : (2013) 3 WBLR 617

Hon'ble Judges : Pranab Kumar Chattopadhyay, J; Murari Prasad Shrivastava, J

Bench : Division Bench

Advocate : Siva Prosad Ghose, for the Appellant; Pradip Dutta and Ms. Munmum Tewary, for the Respondent

Final Decision : Allowed

Judgement

Pranab Kumar Chattopadhyay, J.—This appeal has been preferred from the judgment and order dated 6th March, 2012 passed by a learned Judge of this Court whereby and whereunder the said learned Judge disposed of the writ petition with a direction upon the Principal Secretary, Department of Women & Child Development and Social Welfare, Government of West Bengal to initiate appropriate action against the retired Child Development Project Officer, who appointed the appellants herein. Going through the records we find that the Child Development Project Officer, Bandwan I.C.D.S. Project, Purulia passed an order under Memo dated 30th June, 2011 withholding the honorarium of nine Anganwadi Workers including the present appellants from June, 2011 due to the dispute regarding their way of selection. By the aforesaid order, Child Development Project Officer also directed the nine Anganwadi Workers including the appellants herein not to render their services as Anganwadi Workers at their respective centres.

2. Thereafter, by a written communication dated 1st July, 2011, District Magistrate, Purulia informed the Principal Secretary, Department of W & CD and Social Welfare, Government of West Bengal that the whole process of appointments of nine candidates including the appellants herein to the post of

Anganwadi Workers under the Bandwan I.C.D.S. Project by the then Child Development Project Officer has violated the Government order dated 25th January, 2008 and therefore, recommended for issuance of an administrative order for cancellation of the appointments of the said nine candidates including the appellants herein. The Principal Secretary, however, did not issue any administrative order till date accepting the aforesaid recommendation of the District Magistrate, Purulia.

3. The District Magistrate, Purulia arrived at the conclusion that the selection process for appointments of the appellants to the post of Anganwadi Workers has violated the Government order without even granting any opportunity of hearing to the said appellants. The then Child Development Project Officer was also not asked to explain his conduct in the matter of selection of the aforesaid Anganwadi Workers by the District Magistrate concerned upon granting reasonable opportunity of hearing.

4. The District Magistrate, Purulia recommended for cancellation of the appointments of nine Anganwadi Workers including the appellants herein under the Bandwan I.C.D.S. Project by the aforesaid written communication dated 1st July, 2011 without even observing the principles of natural justice.

5. The Principal Secretary, however, did not act in terms of the aforesaid recommendation of the District Magistrate concerned and no administrative order has yet been issued by the said Principal Secretary cancelling the appointments of the nine Anganwadi Workers including the appellants herein under the Bandwan I.C.D.S. Project.

6. Most unfortunately, the respondent authorities, even in absence of any appropriate order issued by the Principal Secretary, Department of Women & Child Development and Social Welfare, Government of West Bengal withheld the honorarium in respect of the nine candidates including the appellants herein and did not allow the appellants herein to discharge their duties as Anganwadi Workers. The entire action of the respondent authorities in respect of the nine Anganwadi Workers including the appellants herein are illegal and violative of the principles of natural justice and procedural justice.

7. Therefore, the impugned order passed by the Child Development Officer, Bandwan I.C.D.S. Project, Purulia dated 30th June, 2011 and the subsequent recommendation of the District Magistrate, Purulia dated 1st July, 2011 cannot be sustained in the eyes of law and the same are accordingly, quashed.

8. The learned single Judge also did not take note of the aforesaid illegalities and/or irregularities committed by the respondent authorities while deciding the writ petition and passed the impugned judgment and order under appeal without granting any relief to the appellants herein.

9. The learned single Judge while disposing of the writ petition held that the appointments of the appellants herein as Anganwadi Workers was void ab initio

without appreciating that the Principal Secretary, Department of Women & Child Development and Social Welfare, Government of West Bengal being the competent authority did not pass any order accepting the recommendation of the District Magistrate, Purulia. Furthermore, the learned single Judge also failed to take note of the fact that the appointments of the appellants herein could not be cancelled only on the basis of the recommendation of the District Magistrate, Purulia and in absence of any order passed by the competent authority accepting the said recommendation after granting opportunity of hearing to the said appellants and also the then Child Development Project Officer, who was responsible for the appointments of the said appellants.

10. The aforesaid illegalities and/or irregularities committed by the respondent authorities cannot be ignored by any Court of law.

11. For the aforementioned reasons, the impugned judgment and order under appeal passed by the learned single Judge cannot be sustained and the same is, therefore, set aside.

12. The respondent authorities are directed to forthwith allow the appellants herein to resume their duties as Anganwadi Workers and pay admissible salary and allowances regularly.

13. With the aforesaid observations and directions, this appeal stands allowed.

14. In the facts of the present case, there will be no order as to costs. Let urgent xerox certified copy of this judgment and order, if applied for, be given to the learned Advocates of the parties on usual undertaking.

Murari Prasad Shrivastava, J.

I agree.