

(2020) 01 CAL CK 0090
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 533 Of 2019

MD. Hossain Ali

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 16-01-2020

Acts Referred:

Citation : (2020) 01 CAL CK 0090

Hon'ble Judges : Tapabrata Chakraborty, J

Bench : Single Bench

Advocate : Syed Shamsul Arefin, Sirsanya Bandhopadhyay, Sonam Kr. Roy, T.M. Siddiqui, Nilotpal Chatterjee

Final Decision : Dismissed

Judgement

Tapabrata Chakraborty, J

Affidavit of service, filed by the petitioner, be kept on record.

Pursuant to the earlier order passed by this Court, the respondent no.4 is personally present today.

The writ petition has been preferred primarily praying for the following relief :

"a) A writ in the nature of Mandamus commanding the respondent their men and agent, particularly the respondent no.4 for recommending forwarding the name of the petitioner before the respondent no.2 as per Government order dated 03.09.2019."

Mr. Arefin, learned advocate appearing for the petitioner submits that after the petitioner emerged to be successful in a selection process, he was appointed to the post of a Guest Lecturer of Geography in Samsi College (in short, the said college), as would be explicit from the appointment letter dated 16th December, 2013. In the said letter it has inter alia been stated that the petitioner's service may be terminated any time on one month's notice. As no notice was served and no termination order was issued, it needs to be construed that the petitioner

continued to serve on the basis of the said letter dated 16th December, 2013. Subsequently, the respondent no.4 by a letter dated 23rd July, 2016 requested the petitioner to take classes on and from 1st August, 2016 to 29th September, 2016. In the said letter it was also stated that after the said period he would be intimated later, if required, for further classes.

He contends that from the tone and tenor of the letters dated 16th December, 2013 and 23rd July, 2016 it is explicit that the petitioner had been in continuous service and the college authorities were under an obligation to forward the name of the petitioner to the Joint Secretary, Government of West Bengal, Department of Higher Education in terms of the memo dated 3rd September, 2019 by which the respondent no.2 was requested to ask all the Principals/Teachers-in-charge/Vice-Principals/Officers-in-charge of different Government/Government aided colleges in the State to send names of the Guest Teachers engaged upto 13th July, 2019 with a view to restructure the service conditions and other benefits.

He contends that the college authorities have illegally inducted new Guest Teachers one day prior to the date of issuance of the memo dated 13th July, 2019.

Mr. Siddiqui, learned advocate appearing for the State respondents submits that the allegations leveled in the writ petition are primarily against the college authorities.

Mr. Bandhopadhyay, learned advocate appearing for the respondent no.4 submits that the petitioner did not work in the said college since the month of February 2017 and was not paid any salary on and from the month of February 2017, as would be explicit from the acquittance roll, as produced. Let the same be kept on record.

He submits that the memo dated 3rd September, 2019 needs to be read with the contents of the Information Sheet as annexed to it. Names of Guest Teachers, who fulfil the condition specified in Clause 12 of the Information Sheet, were required to be forwarded. The said clause calls for an information as regards total remuneration disbursed to the Guest Teacher during the last 12 months or the period of actual engagement during the last 12 months from 14th July, 2018 till 13th July, 2019. Herein the petitioner did not work for the period from 14th July, 2018 to 13th July, 2019 and as such his name was not forwarded. In view thereof, it cannot be contended that the college authorities have failed to discharge any obligation.

The issue as regards engagement of new Guest Teachers one day prior to the date of issuance of the memo dated 13th July, 2019 has not been pleaded and such engagement is not under challenge in the present writ petition.

From the memo dated 3rd September, 2019 read with the contents of the Information Sheet, it is explicit that the Guest Teachers who had worked for any period of time on and from 14th July, 2018 till 13th July, 2019 were eligible to be

considered. Mr. Arefin has not been able to produce any document to show that the petitioner had worked for any period after the month of January, 2017. According to him, the petitioner should have been construed to be in continuous service since no termination order and/or notice of termination was served upon the petitioner. Such contention is, however, not acceptable to this Court. After discontinuance from the month of February 2017, the petitioner did not take any step till the date of issuance of the memo dated 3rd September, 2019. No legal right of the petitioner has been infringed.

In the said conspectus, this Court is unable to grant the relief, as prayed for in this writ petition and the same is, accordingly, dismissed.

There shall be no order as to costs.