

(2012) 02 CAL CK 0065
In the Calcutta High Court

Case No : Writ Petition No. 12510 (W) Of 2000

Md. Sabir Hossain

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 21-02-2012

Acts Referred:

Citation : (2012) 02 CAL CK 0065

Hon'ble Judges : Shukla Kabir (Sinha), J

Bench : Single Bench

Advocate : Asok Kumar Ganguly and MRs. Atreyee De Ganguly, for the Appellant; Chaitali Bhattacharya, for the Respondent

Final Decision : Allowed

Judgement

Shukla Kabir (Sinha), J.—The Writ Petitioner passed BA Honours in Bengali and got his name registered with the Local Employment Exchange in 1995. In 1996, the Managing Committee of Lohapur M.R.M. High School passed a resolution for considering the need of a Bengali language teacher and the secretary of the school invited applications from candidates of the locality. The petitioner in response submitted an application to appear in the Selection test for appointment in the post of Assistant Teacher in Bengali. In response, the Managing Committee allowed the petitioner to appear in the interview and being satisfied it was decided to appoint the Writ petitioner in the post of Assistant Teacher in Bengali and on 23-12-1996, and appointment letter was issued by the Secretary of the said school and the petitioner joined service of the school and worked as Assistant Teacher in Bengali on Adhoc basis from 2412-1996.

2. In the year 1998, the Board upgraded the said school and sanctioned two post of additional teachers for Higher Secondary. But there was only six teachers in language group though after upgradation the school needed eight language teachers. The Managing Committee of the school had approached the District Inspector of school for conversion of the post of Education for Higher Secondary to Bengali for normal section of the said school. The DI forwarded the said

proposal to the Director of School Education. Accordingly the Managing Committee of the said school issued public notice inviting applications for candidates for appearance in interview. The petitioner submitted application and appeared for interview and was selected as No. 1 of the panel. Though the petitioner worked in the school as Assistant Teacher in Bengali for four years, his service was not regularised by the Respondents.

3. This writ petition has been filed by the petitioner as no steps have been taken by the Respondents for regularisation of his service though he was selected in the interview.

4. In spite of notices sent by the petitioner to the Respondents none has appeared before this Court on the earlier occasion. On 16.2.2012, Ms. Chaitali Bhattacharya Advocate appeared on behalf of the State. But in spite of previous notice no affidavit of opposition has filed and only a statement of submission has been filed. It has been stated in the statement that as the petitioner was appointed on a temporary basis on a non-sanctioned post, he cannot be regularised as Assistant Teacher. This aspect is completely incorrect as the petitioner has rendered service since 1996 in the said school as Assistant Teacher in Bengali Language but he was not at all considered to be regularised. The Hon"ble Supreme Court in State of Karnataka and Others Vs. M.L. Kesari and Others, and in Oil and Natural Gas Corpn. Ltd. Vs. Engineering Mazdoor Sangh, has held that right of employee to be considered for regularisation.

5. Therefore, the writ petition is being allowed and the Respondents No. 2 and 3 are being directed to act in accordance with law and approve and regularise the service of the petitioner as Assistant Teacher in Bengali in the said school as he should not be disturbed by being aggrieved. This action should be taken by the Respondents within three weeks from receipt of this Order.

6. Urgent Photostat certified copy of this order, it applied for, be given to the parties expeditiously on priority basis.