
(2010) 12 CAL CK 0045

Calcutta High Court

Case No: Writ Petition No. 17644 (W) of 2010

Amarendranath Mandal

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision: Dec. 23, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: AIR 2011 Cal 56 : (2011) 5 CHN 624

Hon'ble Judges: Biswanath Somadder, J

Bench: Single Bench

Advocate: T.M. Siddique, for Council, Narayan Ch. Mandal, Anita Khattri and Sipra Maity, for the Appellant; Kanailal Samanta, Tapasi Sinha for State and T.M. Siddique, for Council, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Biswanath Somadder, J.

Affidavit of service filed in Court today be kept on record.

2. The writ Petitioner approaches this Court in another round of litigation. The last time he approached this Court was in the year 2005, when he filed a writ petition, being W. P. 17536 (W) of 2005. That writ petition was disposed of by an order dated 10th September, 2009, passed by Girish Chandra Gupta, J. Pursuant to the said order, the matter was taken up for consideration by the Director of School Education, West Bengal, who took a decision in the matter on 20th/21st July, 2010, which is now the subject-matter of challenge in the present writ petition.

3. Upon perusing the impugned decision rendered by the Director of School Education, West Bengal, it appears that upon consideration of the facts and circumstances of the case and after perusal of relevant Government orders and

rules pertaining to appointment on compassionate ground, the Director was unable to afford any relief to the Petitioner on the grounds stated therein. The impugned decision, as it appears, is supported with cogent reasons. The Director in his decision has observed, inter alia, as follows:

Now, considered the submissions made by both the parties. The Petitioner claimed that consequent upon his father's death, his mother prayed for her appointment to the District School Board, 24 Parganas within the specific time limit. But he could not adduce any evidence in support of her claim. However, if it taken for granted that the Petitioner's mother had applied within the specific time limit, then his mother did not possess requisite qualification for being appointed to the post of a primary teacher during period in question. It has been clearly provided in G. O. No. 1381 Edn(B) dated 4-7-1978 that the widow of a deceased teacher may be included within the ambit of such appointment provided she has the requisite qualification. As such the Petitioner's mother could not be appointed on that ground. Thereafter the Petitioner's mother submitted prayer claiming appointment of her son belatedly after six years" from the date of death of his father when the Petitioner attained majority and after four years from such date on passing Madhyamik Examination. G. O. No. 457-Edn(P) dated 12-10-1987 is also very clear in this respect. It has been provided in the said G. O. that such application should be submitted within two years from the date of death of the incumbent concerned. Also G. O. No. 4-SE (Pry) dated 21-1-1995 stipulates that belated submission of such application i.e. submission within 4 years from the date of death of the incumbent concerned, may be considered under very special circumstances involving serious illness or physical inability of the applicant to submit such application on time.

Thus it is clear that the Petitioner took 6 years" time to get himself qualified for such appointment. It was not the case that he was seriously ill or physically unable in submitting such application belatedly. As such the proposal sent from the concerned District could not be considered favourably by this Directorate and the Chairman District Primary School Council, South 24 Parganas was intimated under this Directorate's memo No. 706 Law (Pry) dated 28-10-2005 as regards such inability.

Considering the facts and circumstances and after perusal of relevant Government orders and rules pertaining to appointment on compassionate ground, I think that I am not in a position to give any relief to the Petitioner on the grounds stated hereinabove.

4. The writ Court ought not to transpose itself as an appellate authority when a particular authority has performed its obligation to abide by the specific directions given by this Court and rendered a decision in the matter supported with cogent reasons. The discretionary jurisdiction of this Court under Article 226 of the Constitution of India ought not to be invoked in such cases, unless of course, the decision so rendered by the concerned authority is palpably wrong or is arbitrary or

perverse or smacks of malafide motive or has been rendered without adhering to the specific directions given by the Court.

5. As observed hereinbefore, the impugned decision rendered by the Director of School Education, West Bengal, is supported with cogent reasons in terms of the specific directions given by this Court and in the facts and circumstances of the case there is no cause for interference and the writ petition is liable to be dismissed and is hereby dismissed.

6. Urgent photostat certified copy of this order, if applied for, be given to the learned advocate for the parties.