

WRIT APPEAL

10.6.2010

Present:- Pranab Kumar Chattopadhyay, J.

&

Syamal Kanti Chakrabarti, J.

M.A.T. 449 of 2010

With

C.A.N.3057 of 2010

With

C.A.N.3056 of 2010.

Re: C.A.N.3057 of 2010.

POINTS

Voluntary services – As an assistant teacher to a school – Whether it can be regularised in absence of any legal provision – Service Law

FACTS

Petitioner served the concerned school voluntarily as an assistant teacher. The petitioner, therefore, prayed for regularisation of his services as an assistant teacher of the said school. The learned Single Judge refused to entertain the aforesaid prayer of the petitioner for regularization in absence of any legal provision. Undisputedly, there is no provision in the statute for regularisation of the services of any teacher who was engaged by the concerned school authorities without following the prescribed rules and procedures. The appellant/petitioner was not appointed to any teaching post upon complying with the prescribed provisions of the relevant Recruitment Rules.

HELD

By rendering voluntary services to the concerned school, neither any right has been accrued in favour of the petitioner for claiming substantive appointment to the post in question nor any obligation arises for the authorities to regularize the services of the appellant/petitioner.

Para 12

It is well settled that any appointment should be made strictly in accordance with the Recruitment Rules and there is no provision in the Recruitment Rules to regularise the services of a teacher on account of rendering voluntary services to any school for a considerable period.

Para 13

Mr. P. K. Bhattacharyya. ...For the Appellant.

Mr. Kumaresh DalalFor the State.

Mr. Kallol Bose. ...For the Council.

THE COURT. 1) This application has been filed for condoning the delay in preferring the appeal by the appellant.

2) Having heard the learned Counsel appearing for the parties and further considering the averments made in this application, we are satisfied that sufficient reasons have been furnished and adequate grounds have been mentioned for condoning the delay in preferring the appeal.

3) Therefore, the delay in preferring the appeal is Condoned .

4) Let the appeal be registered, if the same is otherwise in form.

5) This application thus stands allowed.

6) There will be no order as to costs.

Re: C.A.N.3056 of 2010.

7) This application has been filed in connection with the appeal preferred from the order dated 17th August, 2009 passed by a learned Judge of this

Court whereby and whereunder the said learned Judge dismissed the writ petition on merits

8)It is the case of the appellant/petitioner that the said petitioner served the concerned school voluntarily as an assistant teacher. The petitioner, therefore, prayed for regularisation of his services as an assistant teacher of the said school.

9)The learned Single Judge refused to entertain the aforesaid prayer of the petitioner for regularization in absence of any legal provision.

10)Undisputedly, there is no provision in the statute for regularisation of the services of any teacher who was engaged by the concerned school authorities without following the prescribed rules and procedures. In the present case, the appellant/petitioner was not appointed to any teaching post upon complying with the prescribed provisions of the relevant Recruitment Rules.

11)The learned Advocate of the appellant/petitioner submits that the said petitioner served the concerned school voluntarily as an assistant teacher for a long period and, therefore, entitled to be regularised in the said post of assistant teacher.

12)We are unable to accept the aforesaid claim of the petitioner since by rendering voluntary services to the concerned school, neither any right has been accrued in favour of the petitioner for claiming substantive appointment to the post in question nor any obligation arises for the authorities to regularise the services of the appellant/petitioner.

13)It is well settled that any appointment should be made strictly in accordance with the Recruitment Rules and there is no provision in the Recruitment Rules to regularise the services of a teacher on account of rendering voluntary services to any school for a considerable period.

14)For the aforementioned reasons, we do not find any infirmity and/or illegality and/or irregularity in the impugned decision of the learned Single Judge and, therefore, we affirm the impugned order under appeal passed by the learned Single Judge and dismiss this application as we do not find any merit in the same.

15) In view of our aforesaid findings, no purpose will be served in keeping the appeal pending.

16) Therefore, the appeal is treated as on day's list and dismissed accordingly.

17) There will be no order as to costs.

(Pranab Kumar Chattopadhyay, J.)

(Syamal Kanti Chakrabarti, J.)