

Court No. 24

02.07.2021

(Item No. 11)

(AB)

**W.P.A 4218 of 2021
(Via Video Conference)**

Abdul Chhamad Malita & Ors.

vs

The State of West Bengal & Ors.

Mr. Tulsi Das Roy

Mr. Tirthankar Roy

..... for the petitioners

Mr. Anirban Ray, Ld. G.P.

Mr. Raja Saha

Mr. Biswabrata Basu Mallick

Mrs. Rupsa Chakraborty

for the State

The petitioners claim to be engaged as Pump Operator/Valve Operator by the Public Health Engineering Department between 1993 and 2003. The petitioners submit that they are entitled to get financial benefits in accordance with the Memorandum No. 1033-F(P2) dated 08.02.2019 issued by the Additional Chief Secretary, Finance (Audit) Department, Government of West Bengal.

The petitioners through their Association filed a representation before the Deputy Secretary of the Public Health Engineering Directorate on 29.01.2021. It has been submitted that immediately after submission of the representation on behalf of the petitioners, the respondent authority has stopped paying their remuneration from the month of February, 2021. The petitioners pray for a direction upon the respondent authorities for payment of their arrear remuneration as well as for consideration of

their prayer for payment in terms of the aforesaid Memorandum date 08.02.2019.

The learned advocate representing the State respondents submits, upon instructions, that the Memorandum dated 08.02.2019 relied by the petitioners will not be applicable in their case. It has been submitted that the petitioners were engaged in separate schemes through an Agency. The petitioners were not directly engaged by the Public Health Engineering Department.

The learned advocate representing the petitioners has filed a supplementary affidavit annexing documents in support of their stand that they were engaged by the Public Health Engineering Department.

According to the learned advocate for the respondents, the documents annexed to the supplementary affidavit merely shows that the persons were engaged in various schemes, but does not show that they were directly engaged by the Department.

After hearing the submissions made on behalf of both the parties the instant writ petition is disposed of by granting leave to the petitioners to file independent separate representations annexing all documents in their support of their claim for payment in terms of the Memorandum dated 08.02.2019.

In the event such representation is made, the same shall be considered by the respondent No. 1 being the Secretary, Public Health Engineering Department strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The Controlling Officer of the petitioners shall take into consideration the prayer of the petitioners for payment of arrear remuneration from February, 2021 which according to them has not been paid.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)