

Item No.19
17.05.2023
Court. No. 19
GB

WPA 11475 of 2023

Mithun Ghosh & Ors.
Vs
The State of West Bengal & Ors.

*Md. Nauroz Rahber,
Muhammad Jaurod*

...for the Petitioners.

*Mr. Jahar Lal De,
Mr. Rudranil De*

...for the State.

The petitioners are aggrieved by the fact that even after enhancement of remuneration payable to the contractual employees engaged for implementation of MGNREGA by the memorandum dated March 9, 2019, the petitioners were not actually drawing any higher amount than what was already being paid.

According to the petitioners, the said 'Gram Rojgar Sahayaks' were earning something around Rs.10,000/- to 11,000/- with Rs.8,720/- as the basic pay along with an additional allowance and/or increment and the consolidated enhancement to Rs.12,000/- per month was an eyewash and not actual enhancement.

Reference has been made to several documents to show that the authority had always given additional financial benefit of about Rs.1,000/- or 5% increment, over and above the actual remuneration on a year to year basis. After implementation of the memorandum dated March 9, 2019, the regular incremental benefit and/or enhancement had been stopped. The petitioners pray for incremental benefits.

The petitioners rely on an earlier decision of this Court, and pray for consideration of their grievances.

Mr. De, learned Additional Government Pleader submits that sometime in 2022 after the implementation of the memorandum dated March 9, 2019, the petitioner no.1 entered into an agreement and agreed to receive payment of remuneration at a consolidated rate of Rs.12,731/-. Similar agreements were also executed by the other petitioners sometime in 2022 and 2023.

Undoubtedly, the engagement is contractual and remuneration is paid as per the policy decision of the department. Such remuneration was also enhanced from time to time. By the memorandum of 2019, the remuneration was finally consolidated to Rs.12,000/-. Each of the petitioners have been getting paid as per the agreements. The amounts vary from person to person.

Thus, this Court is not in a position to pass any order allowing incremental benefit over and above the consolidated pay in the absence of any policy or any rule. It is also a fact that the petitioners have already entered into agreements with the authorities and have accepted the remuneration at the rate fixed. However, the petitioners are always at liberty to approach the commissioner or the competent authority with a prayer for enhancement of their remuneration and for other benefits, which may be considered in accordance with law.

If such prayer is made, the same shall be decided by the competent authority. The writ Court cannot direct

mandatory incremental benefits. Such decision of the authority will have to be taken as a policy decision, which is beyond the jurisdiction of a writ court.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)