

WPA 16746 of 2023**Abhijit Saha & Ors.****vs.****The Additional Chief Secretary,
Department of Home and Hill Affairs & Ors.**

Mr. Swapan Kumar Nandi

Mr. Debjyoti Ghosh

...for the petitioners

Mr. Tapan Kumar Mukherjee

Mr. Pinaki Dhole

Mr. Avishek Prasad

...for the State- respondents

Learned advocate appearing on behalf of the petitioners is directed to pay deficit Court fees by tomorrow, i.e. August 17, 2023.

The petitioners' case is that they have been demobilised by an order dated February 3, 2023 with effect from January 1, 2023. Such demobilisation was not in accordance with law.

Mr. Mukherjee, learned Additional Government Pleader appearing on behalf of the State-respondents submits that the petitioners' engagement was only for a period of six months. The petitioners were engaged pursuant to a notification dated June 16, 2022 for a period of six months with effect from July 1, 2022 or up to the date of inauguration of Tala bridge, whichever was earlier. Therefore, by efflux of time the petitioners' engagement came to an end on January 1, 2023. He submits that since the

requirement for temporary home guards was reduced from 350 to 300 by a notification dated December 30, 2022 from Chandannagar PC 50 home guards could not be re-engaged.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the engagement of the petitioners was temporary in nature. They were engaged for a period of six months with effect from July 1, 2022 or till the inauguration of Tala bridge. Furthermore, since the requirement of such home guards for Chandannagar PC was reduced from 350 to 300 by a notification issued by the Deputy Secretary, Government of West Bengal dated December 30, 2022, the authorities concerned had demobilised the said petitioners. This Court also finds that the requirement for number of home guards for Chandannagar PC has decreased whereas the number of home guards for Howrah PC has increased. Therefore, the total number of 2800 home guards deployed in July 2022 remained the same.

The Deputy Secretary, Government of West Bengal also directed fresh recruitment of temporary home guards by an office Memo dated December 30, 2022, for a period of 180 days with effect from January 1, 2023 till June 30, 2023. Had the petitioners been dis-engaged by a

notification prior to January 1, 2023 with effect from that date they could have participated in the new recruitment process. Therefore, by issuing the notification on February 3, 2023 with effect from January 1, 2023, the petitioners were deprived of the opportunity of participating in the new engagement process.

Therefore, this Court **disposes of** the writ application being **WPA 16746 of 2023** by directing the authorities concerned, to consider the engagement of the petitioners as ‘temporary home guards’ in accordance with law, in the event they make fresh representations within 2 (two) weeks from date when new recruitment notification for engagement of THG is published.

Since no affidavits have been called for in the writ petition, the allegations contained therein be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon’ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J)