

WPA 21896 of 2022**West Bengal State Integrated Child Development
Service Project Workers Union & Ors.****vs.****State of West Bengal & Ors.**

Mr. Swarup Paul
Mr. Guru Saday Dutta
Mr. Anish Roy

...for the petitioners

Mr. Anand Farmania
Mr. Rajarshi Basu

...for the State

The petitioner No. 2 is still in service. The petitioner Nos. 3 to 6 have retired on various dates in 2018 and 2019. The petitioners were engaged as Anganwadi Workers (AWWs) and Anganwadi Helpers (AWHs) in the Integrated Child Development Services (ICDS) Scheme of the Government of West Bengal. By a Memo dated February 3, 2014 issued by the Joint Secretary, Department of Child Development & Women Development & Social Welfare, Government of West Bengal, the maximum age limit for an AWW and AWH worker was fixed at 65 years for all new recruits with effect from the date of issuance of the notification. By an Office Order dated March 1, 2013, the Governor was pleased to decide in public interest that the services of all the AWWs and AWHs in Government-run and NGO-run

ICDS Projects would be terminated from their honorary works with effect from April 1, 2014 if they reach 65 years by the March 31, 2014. In the event, the AWW/AWH reaches 65 years after March 31, 2014, her service will be discontinued on and from the last date of the month in which she attends 65 years.

By a notification dated September 30, 2020, the Joint Secretary, W & CD & SWD was pleased to award one time terminal grant of Rs.3,00,000/- to each AWW and AWH. The said notification was applicable to people who attained the age of 65 years on and from September 30, 2020.

Admittedly, the petitioner Nos.2 to 6 have been terminated from service on various dates in 2018 and 2019. Therefore, it has to be **deemed** that they attained the age of 65 years, on the dates of termination/discontinuation of their services.

Only the petitioner No. 2 is continuing in service. Therefore, the petitioner No. 2 is squarely covered by the Memo dated September 30, 2020 since she will attain 65 years after the cutoff date of September 30, 2020.

It is submitted on behalf of the State that the cutoff date of September 30, 2020 is a policy

decision on the part of the State-respondents after taking into consideration the financial viability of the scheme. Since it is a policy decision, the Courts in judicial review should be slow to interfere with the same, unless manifest *mala fide* intention, perversity or arbitrariness can be proved against the respondent authorities.

Considering the submissions of the parties and the materials placed on record, this Court directs the Principal Secretary, Department of Women & Child Development and Social Welfare Department, Government of West Bengal to consider the representations of the petitioners dated June 30, 2022 and July 1, 2022 within a period of eight weeks from date upon giving a personal hearing to the petitioners or her representatives. A reasoned order may be passed after viewing the case of the petitioners sympathetically since the petitioners have completed several years of service as AWW/AWH whereas the persons who have received onetime terminal benefits, may have received the same after completing substantially less years of service as AWW/AWH. A reasoned order shall be communicated to the petitioners within two weeks of passing thereof.

The petitioners' representations for payment of gratuity under the Payment of Gratuity Act, 1972 shall also be considered by the Principal Secretary taking into consideration the Apex Court's Judgments in Civil Appeal No. 3153 of 2022 and SLP (Civil) No. 30193 of 2017.

With the direction aforesaid, **WPA 21896 of 2022** is **disposed of**.

All parties are to act on a server copy of this order downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)