

FMA 3625 of 2015

**The State of West Bengal & Ors.
Vs.
Satya Ranjan Das & Ors.**

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1. The parties are not represented nor any accommodation is prayed for on behalf of the parties.

2. The appeal had appeared in the warning list of cases on and from 19th September, 2023 with a clear indication that the said matter shall be transferred to the Regular Bench on 6.10.2023. The appeal was appeared on 6.10.2023 and is again listed today. All the parties have sufficient notice about the listing of the matter before the Regular Bench on and from 6th October, 2023.

3. The appeal was filed on 20.8.2015. The record shows that no attempt has been made to move this appeal after it was filed. No step has been taken to serve notice and prepare paper books. It clearly shows that the appellants are not interested to proceed with the appeal.

4. The writ petitioners were appointed as Cook, Sweeper, Helper, Assistant Helper and Kitchen Attendant in the hostel of Mahishadal Girls' College, Purba Medinipur. Petitioners were recruited in accordance with Recruitment Rules

and upon observing all the procedures and formalities prescribed under the Statute. Principal of Mahishadal Girls' College issued appointment letter to all the petitioners. Their pay fixations were also made. They were continuing in their respective posts uninterruptedly and they were also working in the hostel. Appointments of the petitioners have already been approved by the Government of West Bengal. Uniform service conditions are followed and made applicable as per Memo no. 1583(100)-Edn.(U) dated 19th October, 1981. Although, the petitioners were appointed in terms of Memo dated 19th October, 1981 but as per circular dated 14th February, 2000 issued by the Joint Secretary, Government of West Bengal revised pay fixation was made and the petitioners were drawing the revised pay scale from the respondents month by month and they were coming under the pay bracket of regular Group 'D' staff of the college.

5. The writ petition was filed by the petitioners claiming that they should be given regular status of permanent Group 'D' employees and they were also liable to get the scale of pay and other service benefits as admissible under Rule like Group 'D' employees.

6. The writ petitioners contended before the learned Single Judge that they were appointed through proper selection process and their pay fixation was made and subsequently benefit of revision of pay fixation was also given.

7. Learned counsel for the petitioners before the learned Single Judge relied upon the decision of the Hon'ble Supreme Court in the case of **G.B Pant University of Agriculture & Teahnology Vs. State of U.P & Ors.**, reported in **2000(7) SCC 109** and submitted that in terms of the aforesaid judgment the employees of the hostel and/or mess should be treated as employees of the University and they are non-teaching staff of the college.

8. Learned Single Judge on the basis of the materials on record arrived at a finding that the writ petitioners were working as hostel/mess employees and they were selected through proper selection process. Appointment letters were issued by the Principal of the college at the relevant point of time. The writ petitioners are in continuous service. Their pay fixation was made immediately after their appointment. They were given benefit of revised pay fixation pursuant to Government Memo dated 14th February, 2000. It

is evident that the writ petitioners who were given revised pay scale and other dues as Government employees, but did not get the status of regular Government employees. Clause '8' of circular dated 14th February, 2000 reads as follows:-

"The employees of hostels/messes shall be entitled to the benefit of General Provident Fund and Pension Scheme with effect from 1st February, 2000."

9. Since the petitioner were treated as regular employees by the College authorities and they were given pay fixation as per Government circular as was available to Group 'D' employees of the College. The issue of giving regular status to these types of employees has already been decided before this Hon'ble Court. One of such case is reported in **1996 CWN 237 (State of West Bengal Vs. Sreedam Sarkar & Ors.)**.

10. We have considered the judgments of the Hon'ble Supreme Court and our Court and we find that the ratio of the judgments is squarely applicable to the petitioners.

11. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge. We presume that by this time the order has already been

implemented as the State had not pursued the appeal. They have filed the appeal without any intention to do the appeal.

5. In view of the above, the appeal is accordingly dismissed.

(Uday Kumar,J.)

(Soumen Sen, J.)