

**WPA 21713 of 2018**  
**Dinesh Kumar Samanta & Ors.**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Shyamal Kumar Mukherjee,  
Mr. Swapan Pal

...For the Petitioners

Mr. Nilotpall Chatterjee,  
Mr. Sourav Sengupta,  
Mr. Satyaki Banerjee

...for the University

Mr. Subhendu Roy Choudhury

...For the State

Let the written note of arguments filed by the petitioners be kept with the records.

Unfortunately, this Court cannot give any relief to the writ petitioners though it appears that some similarly circumstanced canteen employees' of the relevant university have been accorded the status of regular university employee following the orders passed by this Court. Possibly, the petitioners are solely responsible for this outcome.

The petitioners along with forty-three other canteen employees of Calcutta University approached this Court seeking their status as the regular university employees. They were working at different canteens of the Calcutta University.

The said writ petition being Matter No. 1506 of 1994 was disposed of on July 16, 1997 by a Single Bench

of this Court with a direction upon the State Government to take a decision in the matter in a time bound manner.

The State Government, however, declined to grant any relief following the order of the learned Single Judge.

The said employees again approached this Court to challenge the order of the State by filing the second writ petition, W. P. 190 (W) of 2001. This writ petition was disposed of on February 21, 2001 granting liberty upon the writ petitioners to make an application under Section 10 of The Contract Labour (Regulation and Abolition) Act, 1970.

It appears that only twenty three employees out of all the writ petitioners preferred an appeal before a Division Bench of this Court challenging the said order dated February 21, 2001, while the remaining twenty two including the present five writ petitioners chose not to pursue the case any further. May be they were disappointed since they did not get any positive results after filing two writ petitions in a row.

Ironically, from the Appeal Court, the outcome changed its trajectory.

The Appeal Court by an order dated July 26, 2007 allowed the appeal with a direction upon the State to consider the issue afresh in the light of the observations made in the said judgment.

Though a Special Leave Petition was filed before the Hon'ble Supreme Court against the said order dated July 26, 2009, the Chief Secretary of the State thereafter took

up the matter and by his order dated November 5, 2008, he passed the following directions :-

**“In view of the above facts and also in the light of the observation made by the Hon’ble Division Bench of High Court, Calcutta, in order dated 26.07.20227 I am of the view that the canteen employees of the University may be treated as the employees of the University and they may be given the status of the said University employees subject to the condition that their appointment to the post of the canteen employees shall abide by the result of the SLP which is being filed in the matter of State of W.B. & others –vs- Dwijendra Nath Singha and others. The decision may, however, be communicated to all concerned.”**

The said Special Leave Petition ( C ) 29773 of 2008 was subsequently disposed of on March 1, 2016 with the following observations :

**“However, when this special leave petition was moved on 1.12.2008, it is apparent that the order of the Chief Secretary was not known to this Court which was dated 5.11.2008. In the circumstances, while issuing notice, order of interim stay came to be passed. Nevertheless it transpires that the respondents herein (who are now 23 + 2) continue to work in the canteen of the University of Calcutta-Respondent Nos. 24 & 25 herein. Inasmuch as, in his wisdom, the Chief Secretary having applied his mind to the plight of the above 25 employees, thought it fit to implement the decision of the Division Bench dated 26.7.2007 by directing the University of Calcutta to treat them as employees of the University and give the said status, in all fairness, we are convinced that**

**the said direction of the Chief Secretary should be affirmed without giving scope for any further ambiguity.**

**Therefore, while affirming the said decision of the Chief Secretary dated 5.11.2008, the University of Calcutta is directed to implement the said order expeditiously, preferably within four weeks from the date of receipt of a copy of this order.**

**With the above observations and directions, the special leave petition stands disposed of.”**

Ultimately, the State Government by an order dated September 29, 2016, conferred the status of the canteen employees as the employees of the university of Calcutta only for those who were party to the appeal before the Division Bench of this Court and the Supreme Court.

Only after the government order dated September 29, 2016 was issued by the State the present writ petitioner again approached this Court by filing this writ petitioner in 2018 seeking similar reliefs.

The learned Advocate appearing for the petitioners submit that since other canteen workers have been regularised by the order dated September 24, 2016, The petitioners should also be given the benefit of the said Government order.

I am unable to grant any relief to the present writ petitioners. The Supreme Court specifically passed order in respect of twenty-five employees only. The conduct of the petitioner also disentitles them from receiving any relief from this Court.

After dismissal of the writ petition, W.P. No. 190 (W) of 2001, the petitioners did not take any steps.

Only after the order dated September 29, 2016 was issued by the State, they showed up again before this Court after long seventeen years to reap the benefit of the long drawn legal battle fought by others. The petitioners had left the battlefield and victory is not for those who flee the battlefield.

This present has remained in this Court for regularly about four years. Three writ petitioners namely, Badal Chandra Maiti, Sudhir Panda and Mantu Jana have already crossed 60 years of age.

In view of the aforesaid circumstances, despite being sympathetic to the writ petitioners, I am unable to grant any relief to them.

Accordingly, **WPA 21713 of 2018** is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

**(Kausik Chanda, J.)**