

03.08.2023
Item No.52
Court No.11
Avijit Mitra

WPA 24312 of 2019

Satyaki Chowli & ors.
-versus-
State of West Bengal & ors.

Mr. Indranath Mitra,
Mr. Neil Basu,
....for the petitioner
Mr. Sirsanyo Bandyopadhyay,
Mr. Subhendu Sengupta
....for the State

Liberty is granted to the petitioner to add the Commissioner, Panchayat and Rural Development Department, Government of West Bengal, Joint Administrative Building, Block HC -7, Sector-III, Salt Lake, Kolkata-700016 as one of the respondents to the writ petition.

The writ petitioners have knocked the door of the writ court praying for a direction upon the concerned respondents to revise the petitioners' monthly remuneration, to consider the case of security of the tenure of service of the petitioners and to extend other consequential benefits in the light of the memorandum dated 8th February, 2019 issued by the Additional Chief Secretary, Government of West Bengal Finance (Audit Department).

Factual scenario as depicted in the writ petition is that the National Rural Employment Guarantee Act, 2005, which was subsequently renamed as Mahatma Gandhi National

Rural Employment Guarantee Act, 2005 (in short, the MGNREGA Act, 2005, was enacted by the Parliament mainly with an object to provide financial support to the downtrodden people of our country by making an arrangement for at least 100 days wages for them by capitalizing their labours on various developmental projects of the country.

For the advancement of the schemes introduced under 2005 Act, the Government of West Bengal also decided to engage Gram Rojgar Sevak on contract basis in every Gram Panchayat in the State of West Bengal. Accordingly, the Principal Secretary to the Government of West Bengal, Panchayat and Rural Development Department issued an order dated 21st November, 2007 and prescribed a selection procedure for appointment of Gram Rojgar Sevak in every Gram Panchayat of the State. The petitioners participated in the selection process initiated by the State and emerged as successful candidates. Subsequent thereto, they were engaged in the said posts under various Gram Panchayats of the State in 2012 and their engagements have been extended from time to time. It was contended therein that till the date the petitioners have been discharging the duties which are being assigned to them with full satisfaction of all concerned without any blemish.

The service conditions of the Gram Rojgar Sevak were reviewed from time to time. The Principle Secretary to the Government of West Bengal, Finance Department issued one

memorandum dated 25.2.2016 declaring that the Government of West Bengal decided that '*all the contractual/casual/daily rated workers shall continue to be in engagement up the age of 60 years and their engagement shall not be terminated except as prescribed in the memo dated 16th September, 2011*' and their consolidated monthly remunerations were also increased.

By virtue of another memorandum vide. dated 8.2.2019, consolidated monthly remunerations of the contractual/casual/daily rated workers were revised and/or increased.

It was urged in the writ petition that the benefit of revised remuneration and the benefit of security of tenure of service have not been extended to the petitioners and as such, the petitioners made a representations to the Additional Chief Secretary and the Principal Secretary, Government of West Bengal and to the Commissioner, MGNREGA, Government of West Bengal, Panchayat and Reral Development Department on 24th July, 2019 but till the date such representation has not been considered and no decision has been taken on such representation.

Mr. Mitra contends that benefits as referred in the memo. dated 26.2.2016 and 08.02.2019 have been extended to identically circumstanced candidates but such benefits have not been extended in favour of the petitioners. He submits that a direction can be given upon the concerned

respondent to consider and dispose of the representation submitted by the petitioners.

Mr. Sengupta, learned advocate appearing for the State respondents submits that the added respondent is the appropriate authority to consider and dispose of the representations of the petitioners and if the matter is relegated to the added respondent, the grievances of the petitioners shall be addressed in accordance with law.

Heard the learned advocates and perused the materials on record placed on record.

Records reveal that the writ petitioners were appointed as Gram Rojgar Sevak through a selection process under MGNREGA scheme and the Government has reviewed the service conditions of casual/daily rated/contractual workers from time to time and extended the benefits of revision of consolidated monthly remunerations and security of tenure of service. Records postulates that in 2019 the petitioners made representation before the concerned respondents but the representation is still awaiting decision of the respondents.

Having considered the factual conspectus of the matter and having given anxious consideration to the submissions made on behalf of the parties, the Commissioner, Government of West Bengal, Panchayat & Rural Development Department is directed to consider and dispose of the representations of the petitioners in accordance with law within 4(four) weeks from the date of

communication of this order. The Commissioner shall decide whether or not the benefits as referred in the memoranda dated 25.02.2016 and 8.2.2019 can be extended in favour of the writ petitioners.

The writ petitioners are directed to place a copy of the writ petition before the Commissioner and such writ petition shall be treated as representation of the petitioners.

The writ petitioners shall nominate two persons from them to represent all the writ petitioners before the Commissioner and names and other particulars of such nominees shall be submitted in the office of the Commissioner and the Commissioner shall consider and dispose of the representation of the petitioners by affording an opportunity of hearing to such nominees and/or representatives of the writ petitioners.

It is clarified that this Court has not gone into the merits as regards the claim of the writ petitioners is concerned.

If the representation is decided in favour of the writ petitioners, the Commissioner shall take up next course of follow up actions to extend the benefits as referred in the memoranda dated 25.1.2016 and 8.2.2019 in favor of the petitioners within four weeks thereafter and if it is decided against the petitioners, the Commissioner shall pass reasoned order and communicate the same to the petitioners within two weeks from the date of taking such decision.

The order of this Court shall be communicated to the Commissioner along with the server copy of this order and the Commissioner shall act on the basis of such communication.

With the above observations and discussions the writ petition is disposed of.

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

(Partha Sarathi Chatterjee, J.)