

29.01.2024
Court No. 13
Item No. 434
AP

WPA 1869 of 2021

Ranjit Saha and Ors.

Vs.

The State of West Bengal and Ors.

Mr. Jayanta Narayan Chatterjee
Mr. Debashis Banerjee
Ms. Moumita Pandit
Mr. Supreem Naskar
Ms. Jayashree Patra
Ms. Pritha Sinha
Mr. Bhaskar Mondal

.... For the Petitioners.

Mr. Biswabrata Basu Mallick
Mr. Ayan Banerjee
Ms. Rupsha Chakraborty

.... For the State.

1. Since this Court requested Mr. Biswabrata Basu Mallick to lead Mr. Ayan Banerjee and Ms. Rupsha Chakraborty in this matter, let the appointment of Mr. Biswabrata Basu Mallick be regularized by the office of the legal remembrancer.

2. The writ petitioners challenge order dated 25th September 2020 passed by the Deputy Secretary, PHE Department, Government of West Bengal.

3. The petitioners are all guards of the pumping stations maintained at the Gram Panchayat level. The pumping equipment and work is controlled and operated by the Public Health Engineering Department, Government of West Bengal.

4. The general maintenance and security of the pumping stations is under the concerned Gram

Panchayat. For the said purpose the Public Health Engineering Department gives a monthly lump sum payment to the Gram Panchayat concerned. The Panchayat at its end, either through its Sabhapati or through the Pradhan, engaged the petitioners. The wages of the petitioners are paid by the Gram Panchayat.

5. The petitioners claim that their work is vital for the maintenance of the water supply facilities for Gram Panchayat levels. They discharge the vital responsibility of guarding the water supply installations. They also perform a basic operations of the pumps. The maintenance and repairs are, however, carried out only by the Public Health Engineering Department.

6. The petitioners claim that the limited remuneration being paid to them by the Gram Panchayat is grossly inadequate. Their engagement is casual and/or daily rated. Admittedly, there is no sanctioned post of a pumping guard in the Gram Panchayat, yet the petitioners remain continuously engaged for years.

7. The petitioners do not seek any regularization of service or permanent absorption in the State or the Gram Panchayat concerned. They seek the benefit of Circular No.9008-F(P) dated 16th September, 2011 of the State Government.

8. By the said circular the State was desirous of addressing the demands of casual/daily rated and/or

contractual workers engaged in various departments and bodies under the State. In lieu of any permanent absorption or right of any permanent employment with the State and/or the concerned body, a fixed monthly remuneration was sought to be paid to such casual/daily rated and/or contractual employees. The said employees were to continue until the age of 60 years. Upon cessation of engagement at the age of 60, they are to receive a fixed lump sum money.

9. The said circular dated 16th September, 2011 was revised from time to time and lastly in the year 2019. By the revision, the monthly emoluments and the lump sum at the time of reaching the age of last engagement were revised.

10. This Court in a similar case, by an order dated 18th December, 2023 passed in **WPA 8597 of 2020 (Akbor Ali & Ors. Vs. The State of West Bengal and Ors.)** had allowed the prayers made by the petitioners therein. The petitioners place reliance thereon.

11. Mr. Biswabrata Basu Mallick, representing the State in the instant case, would argue that firstly the petitioners were never engaged by the State or any of its instrumentalities. The letters of engagement produced by the petitioners to the writ petition itself indicate that they were engaged by the concerned Sabhapati or the Pradhan of the Gram Panchayats.

12. The State thus has no relationship whatsoever direct or indirect with the petitioners. It is also argued that Panchayat are independent bodies recognized by the Constitution of India and cannot be confused with the State or any of its instruments or bodies.

13. It is submitted that the responsibility of maintaining the water supply system and pumps may rest with the Public Health Engineering Department, Government of West Bengal. It is only for the limited purpose of guarding and operation of the pumps and water supply systems that the Public Health Engineering Department gives a monthly sum to the concerned Gram Panchayat. Thus, there is no relationship between the petitioners and the State.

14. Mr. Biswabrata Basu Mallick, learned counsel for the State also submits that the petitioners have not been engaged against any sanctioned post, nor has any recognized process been followed in recruitment or their engagement. They, therefore, are not entitled to the benefits of the Circular dated 16th September, 2011.

15. This Court has carefully considered the arguments of the petitioners and the counsel for the State. The Gram Panchayats and/or Panchayat Samities are part of Panchayat Raj system introduced as a Constitutional mandate under part IX under Articles 243; 243A to 243O of the Constitution of India.

16. The Panchayat Raj system has been introduced to ensure that the benefit of State and Central schemes are available to people, who reside in the most remote corners of the country, particularly in the villages. There are a huge number State and Central schemes for the benefit of the people, who reside in the village levels in this country, who might comprise of a majority of the country's population. Gram Panchayats and Samities are elected bodies and their election is governed and monitored by the Central and State Election Commissions.

17. In the backdrop of the above, for the State to see it as body distinct from that of the Panchayats, would defeat the rights of citizens in general and of any benefit of Central and State Government schemes, in particular.

18. In the instant case, it is seen that the petitioners might be appointed by the concerned Sabhapaties and the Pradhans of the Gram Panchayats and Samities. They, however, perform a vital function of guarding and maintaining and operating the rural water supply system and pumps. The said pumps and water supply systems are run, maintained and established by the State Government particularly under the Ministry of Public Health and Engineering. The petitioners, therefore, assist the State in making available the benefits of water supply to the residents of villages i.e. citizens at the grass root levels in the State.

19. It would, therefore, be inappropriate for the State to contend that the benefits of the circular dated 16th September, 2011 cannot be made available to the petitioners. The petitioners albeit engaged by the concerned Panchayat Pradhan or the Sabhapati perform a vital duty to assist the State in discharging its duties of supplying water to the Gram Panchayats.

20. For the reasons stated hereinabove, this Court is of the view that the benefits of the circular dated 16th September, 2011, as modified from time to time, must be made available to the writ petitioners. The said benefits shall, however, be available to the petitioners prospectively from the date of this order.

21. Therefore, the order dated 25th September, 2020, impugned in the writ petition, shall stand quashed and set aside.

22. With the aforesaid directions, the writ petition shall stand allowed and disposed of.

23. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)