

10-01-2024
ct no. 13
sl. 393 to 403
pk

WPA 1712 of 2022
Dr. Prasenjit Kabiraj
-Versus-
State of West Bengal and others
With
WPA 1718 of 2022
Dr. Tapas Bhunia
-Versus-
State of West Bengal and others
With
WPA 1812 of 2022
Dr. Salil Gupta & Ors.
-Versus-
State of West Bengal and others
With
WPA 1950 of 2022
Lakshmi Kanta Dutta & Ors.
-Versus-
State of West Bengal and others
With
WPA 1953 of 2022
Sudipta Kumar Saha @ Sudipta Saha & Ors.
-Versus-
State of West Bengal and others

With
WPA 1957 of 2022
Gorachand Mukhopadhyay
-Versus-
State of West Bengal and others
With
WPA 1958 of 2022
Dr. Dr. Pradip Kumar Kundu & Ors.
-Versus-
State of West Bengal and others
With
WPA 2088 of 2022
Dr. Subhasis Acharya & Ors.
-Versus-
State of West Bengal and others
With
WPA 2089 of 2022
Monoranjana Mondal & Ors.
-Versus-
State of West Bengal and others
With
WPA 2093 of 2022
Soumik Ghosh & Ors.

-Versus-

State of West Bengal and others
With

WPA 3067 of 2022

Dr. Tapan Kumar Sahu & Ors.

-Versus-

State of West Bengal and others

Mr. Sayan Chattopadhyay

... for the petitioners

Mr. Asish Guha,

Mr. Suman Dey

...for the State (in WPA 1712 of 2022, WPA 1718 of 2022, WPA 1950 of 2022, WPA 1953 of 2022 and WPA 1957 of 2022)

Mr. Bhaskar Prasad Vaisya,

Mr. Somnath Naskar

...for the State (in WPA 1958 of 2022 & WPA 3067 of 2022)

Mr. Tapan Kumar Mukherjee,

Mr. Somnath Naskar

...for the State (in WPA 1958 of 2022 & WPA 3067 of 2022)

Mr. Supriyo Chattopadhyay,

Ms. Sayantanee Bhattacharjee

...for the State (in WPA 2088 of 2022)

Mr. Arjun Roy Mukherjee,

Ms. Tuli Sinha,

Mr. Tapas Kr. Mondal

...for the State (in WPA 2093 of 2022)

1. The petitioners in these writ petitions are Ayurvedic Part-time Medical Officers posted at Gram Panchayats engaged pursuant to a notification of the State dated February 24, 2006. They are posted the a Ayurvedic Dispensaries located at the respective Gram Panchayats. They are selected by the Pradhan Panchayat itself. They are currently paid consolidated remuneration of Rs. 16,000/-.

2. They are aggrieved that Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers recruited and posted at District Medical Hospitals and DPSCs are paid higher remuneration of Rs. 56,000/- along with basic and several other benefits like DA, HRA etc.

3. It is also submitted that the said Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers are covered under ROPA 2019 whereas the petitioners are not. The petitioners assert the principle of equal pay for equal work, and submit that they are similarly situated in work condition and service as the contractual Senior Ayurvedic and Ayurvedic Medical Officers. They pray for remuneration similar to such Contractual Ayurvedic Medical Officer.

4. In the affidavit-in-opposition filed by the State, it is seen that the petitioners' services start at 11 a.m. and come to end at 5 p.m. The Senior Ayurvedic Medical Officers under the BPHC's and PHC's and the District Government Hospitals work from 9 a.m. to 2 p.m. The said doctors, however, work from Monday to Saturday as opposed to the petitioners who work for Monday to Friday. It is stated by the petitioners that the total number of working hours in a month for the petitioners and the

said Contractual Senior Ayurvedic Medical Officer and Contractual Ayurvedic Medical Officers is same.

5. This Court has carefully considered the arguments of the learned counsel for the petitioners. The Affidavit-in-opposition filed by the State has also been considered. There are two vital differences between the petitioners and the Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers.

6. Firstly, the Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers are recruited by the West Bengal Health Recruitment Board for a period of 12 months only. The contracts are renewable at the sole discretion of the State. Secondly, there is no formal recruitment process or supervision of the same for the petitioners. The engagement of the petitioners is purely at the discretion of the Pradhan of the Gram Panchayat. The petitioners once engaged, continue to work until the age of 65 years.

7. The recruitment process of the Contractual Ayurvedic Medical Officers involves experience, interview selection and empanelment and thereafter engagement. Whereas the petitioners are appointed at the sole discretion of the Pradhan of the Gram Panchayats.

8. Given the differences in the recruitment process and the length of service and discretion vested in the State in renewing of the contract of the Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers on one side and the petitioners on the other, this Court sees and notices substantial difference between the nature of service of the petitioners and the Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers posted in District Hospitals, BPHCs and PHCs.

9. In view of the above, this Court is of the view that the petitioners cannot claim parity with the class of Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers. Even the submission of the counsel for the petitioners that his clients seek only the same remuneration and do not insist on any other benefits enjoyed by the Contractual Ayurvedic Medical Officers would not lend credence to the claim of parity with the Contractual Senior Ayurvedic Medical Officers and Contractual Ayurvedic Medical Officers.

10. The learned counsel for the petitioners places reliance on a decision of the Supreme Court in the case of State of Punjab and Ors. Vs. Jagjit Singh &

Ors. reported in **(2017) 1 SCC 148** and on another decision of the Supreme Court in the case of North Delhi Municipal Corporation Vs. Ram Naresh Sharma & Ors. reported in **2021 SCC Online SC 540**, which do not have any application in the instant case since the facts in the said cases are different from the instant writ petitions.

11. In those circumstances, no relief can be granted to the petitioners.

12. Hence, all these writ petitions shall stand dismissed.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)