

13.09.2024
SL No.118
Court No.24
sg

WPA 9830 of 2021

Bireswar Biswas

Vs.

The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Payel Shome,
Ms. Sompriti Saha,

...for the petitioner.

In pursuance to the direction of this Court dated 22nd August, 2024, learned Counsel for the petitioner served notice upon the learned Counsel of the State respondent. Copy of notice is taken on record. In spite of service of notice, none appears on behalf of the State respondent.

The petitioner is a contractual Audiologist and Speech Therapist under the Department of Health and Family Welfare, Government of West Bengal. He was initially appointed vide Government Order No. HF/1/MERT/4M-04/02/A 6834/1(II) dated 05.12.2002 as Speech Therapist on contractual basis for a period six months at a consolidated pay of Rs. 3,600 per month.

It is the case of the petitioner that petitioner was thereafter engaged year to year basis with some consolidated amount. Last of all, the

petitioner was engaged as Audiologist and Speech Therapist of ENT Department, Medical College and Hospital, Kolkata for a period of one year with effect from 01.11.2009 vide memo dated April 18, 2019.

It is the case of the petitioner that consolidated pay became irregular, thus, he files writ petition seeking necessary direction of the authority concerned so that, salary of the petitioner along with all arrear salaries from February, 2020 with interest may be directed to pay.

It is the further case of the petitioner that just after he files this writ petition, he was not allowed to continue his job and not allow to enter into the Office premises of ENT Department, Medical College and Hospital, Kolkata.

Learned Counsel appearing on behalf of the petitioner submits that act and action of the concerned authority is very peculiar in nature though the authority has extent contractual terms of engagement of the petitioner from year to year in terms of the memo, but suddenly they did not allow the petitioner without any reason. It has been specifically mentioned that the contractual engagement of the petitioner would be continued till regularized. The petitioner is also armed with the memo of the Finance Department, Government of Government of West Bengal dated 16th September,

2011, wherein the Government has taken a stand for pay protection of all casual/daily rated/and contractual workers. He further submits contractual workers vide memo dated 16th September, 2011 were allowed to remain engaged till their attainment of the age of 60 years.

Learned Counsel for the petitioner further argued that the Finance Department, Government of West Bengal again issued a memo on 25th February, 2016 wherein the engagement of all contractual casual daily rated workers are directed to be continued in the engagement up to their age of 60 years. Consolidated monthly pay of the said workers were also fixed including terminal of the attainment age of 60 years.

Learned Counsel further argued that no disciplinary action has been taken by the concerned authority to terminate the present petitioner from the service. Thus, necessary direction may be passed upon the concerned authority so that engagement of the petitioner may be restored and continued with the concerned Department by virtue of memo vide order dated 16th December, 2011 as well as 26th February, 2016 or any subsequent memo of relevant issue.

Having heard the learned Counsel for the petitioner, it appears to me that State authority not appears before this Court to contest the writ petition.

It further appears to be that present petitioner was engaged as Speech Therapist on contractual basis and lastly he was posted Audiologist and Speech Therapist of ENT Department, Medical College and Hospital, Kolkata. The service of the casual/daily rated contractual workers of the State of West Bengal and their status and pay protection thereafter has been specifically mentioned by the State of West Bengal by virtue of memo dated 16th September, 2024 as well as memo dated 25th February, 2016.

Memorandum

“In this Department No. 9008 –F(P) dated 16.09.2011 it was decided to allow appropriate emoluments, security of tenure and certain terminal benefits to the casual/daily rated/contractual workers subject to fulfillment of conditions therein.

2. The matter regarding improvement of monthly remuneration, annual increment, medical facility, leave and others benefits as well as review of the conditions of engagement were under active consideration of the Government for some time past.

3. Now, after careful consideration of the matter, the Governor has been pleased to decide the revise the benefits as follows:

i. All contractual/casual/daily rated workers shall continue to be in engagement up to the age of 60 years. Engagement of contractual/casual/daily rated worker shall not be terminated except as prescribed in th above referred Memo.

ii. Consolidated monthly remuneration of contractual/casual/daily rated workers will be as follows:

Group D		
Period of engagement	Present	Proposed
Less than 5 years	Rs. 7,000/-	Rs. 10,000/-
5-10 years	Rs. 7,000/-	Rs. 12,000/-
10-15 years	Rs. 8,500/-	Rs. 14,500/-
15-20 years	Rs. 8,500/-	Rs. 17,000/-
More than 20 years	Rs. 8,500/-	Rs. 20,000/-

Group C		
Period of engagement	Present	Proposed
Less than 5 years	Rs. 8,500/-	Rs. 11,500/-
5-10 years	Rs. 8,500/-	Rs. 13,500/-
10-15 years	Rs. 11,000/-	Rs. 16,000/-
15-20 years	Rs. 11,000/-	Rs. 19,000/-
More than 20 years	Rs. 11,000/-	Rs. 22,500/-

iii. Enhancement of remuneration : 3% in every year.

iv. Terminal benefit on attaining the age of 60 years. : Rs. 2 Lakhs

v. Medical benefit : All contractual /casual workers and their families will be covered under a health insurance coverage upto Rs. 1.50 lakh for secondary and tertiary illnesses and Rs. 5 lakh for critical illnesses.

vi. Leave benefits : In addition to existing 30 off days, 10 days leave will be allowed on medical ground in a year. Maternity leave will be as in the earlier order.

4. The Governor has been further pleased to decide that a High Powered Committee will be formed to review the conditions of their engagement and for suggestions as to further improvement in the financial and other conditions of engagement due to future developments.

5. This will take effect from 1st March, 2016.

**Sd/ H.K. Dwivedi
Principal Secretary to the
Government of West Bengal.**

Facts suggests that the petitioner was engaged with the Department of Health and Family Welfare, Government of West Bengal since the year 2002. Nothing suggests regarding the discontinuation of the service of the petitioner or any allegation of the petitioner in dealing with job which was entrusted upon him. State authority cannot deprive any individual from his job without any reason or without the procedure mention in the G.O.

Considering the circumstances, it appears to me that present petitioner must be allowed to continue his service in the status of a contractual workers by virtue of the memo dated 16th September, 2011 as well as 25th February, 2016. I make it clear that respondent authority cannot debar the present petitioner to engage in the same job without any reason., which shall tantamount to violation of constitutional right of the petitioner.

Under above circumstances, the writ petition is disposed of with a direction to the respondent no.2/competent authority to take a prompt decision, so that present petitioner may allowed to continue his service as an Audiologist and Speech Therapist on contractual basis by virtue of memo dated 16th September, 2011 as well as 25th

February, 2016 and any subsequent memo on the relevant issue.

The State authority must engage the petitioner in the service by taking a reasoned decision on the basis of a representation of the writ petition couple with the copy of this order within four weeks from the date of such representation. The decision so obtained by the concerned appropriate authority shall be intimated to the petitioner within two weeks thereafter.

Under the above observation the writ petition is disposed of.

Urgent photostat certified copy, if applied for, be supplied to the parties upon compliance of all legal formalities.

(Subhendu Samanta, J.)