

Ct. 41
Item Nos. 5-11
22.02.2024
(Suvendu/BP)

CPAN 1397 of 2022

Subhashis Chakraborty

Vs.

P. Ulaganathan and Others

in

WPA 8486 of 2020

Subhashis Chakraborty

Vs.

State of West Bengal & Others

in

WPA 8494 of 2020

Md. Sarifuddin

Vs.

State of West Bengal & Ors.

With

WPA 8498 of 2020

Chinmoy Goswami

Vs.

State of West Bengal & Ors.

With

WPA 8500 of 2020

Partha Mandal

Vs.

State of West Bengal & Ors.

With

WPA 8502 of 2020

Sajal Kumar Ghoshal

Vs.

State of West Bengal & Ors.

With
WPA 8504 of 2020
Humayun Kabir
Vs.
State of West Bengal & Ors.

With
WPA 8507 of 2020
Partha Mandal
Vs.
State of West Bengal & Ors.

With
CPAN 1398 of 2022
Md. Sarifuddin
Vs.
P. Ulaganathan and Others

With
CPAN 1399 of 2022
Humayun Kabir
Vs.
P. Ulaganathan and Others

With
CPAN 1400 of 2022
Sajal Kumar Ghoshal
Vs.
P. Ulaganathan and Others
With

CPAN 1401 of 2022
Partha Mandal
Vs.

P. Ulaganathan and Others

With

CPAN 1402 of 2022

Chinmoy Goswami

Vs.

P. Ulaganathan and Others

With

CPAN 1403 of 2022

Partha Mandal

Vs.

P. Ulaganathan and Others

Mr. Subir Sanyal

Mr. Sagnik Roy Chowdhury

.....for the petitioners

Mr. T.M.Siddiqui

.....for the alleged contemnor nos.

Mr. Pantu Deb Roy

Mr. Panna Lal Bandyopadhyay

....for the alleged contemnor no.1

Mr. Subir Sanyal, learned advocate appears for the petitioners, Mr. T.M. Siddiqui, learned advocate appears for the alleged contemnor nos. 2 to 5, Mr. Pantu Deb Roy, learned advocate appears for the alleged contemnor no. 1.

The petitioners have filed the present contempt applications alleging that the alleged contemnors have not complied with the common judgment and order dated 7th April, 2022 passed in WPA 8502 of 2020 along with other writ petitions.

By the said judgment and order this Court passed the following directions upon the respondents/ alleged contemnors :-

“In view of the above this Court is of the view that the petitioners were engaged in the year 2011 except the petitioner in WPA No. 8502 of 2020 as the petitioner namely Sajal Kumar Ghoshal was engaged on 01.09.2015 and since then the petitioners are continuously working as contractual worker and thus the respondent are directed to grant the benefit of enhancement of financial and other benefits in terms of the Memorandum dt. 28.05.2013, 06.12.2013, 25.02.2016 and 08.02.2019 to the petitioners within a period of four weeks from the date of communication of this order.”

On receipt of the notice of contempt, the alleged contemnor no.5/ BDO has filed a compliance report enclosing an order dated 3rd August, 2023. Operative portion of the said order reads as follows: -

“This Order is hereby granting financial and other benefits to the contractual staff Shri Subhashis Chakraborty, in terms of the aforesaid Memoranda dated 28.05.2013, 06.12.2013, 25.02.2016 and 08.02.2019, against the sanctioned vacancy of the post of Typist Clerk under RD set up. This order is issued in compliance with the solemn judgment and order dated 07.04.2022 passed by the Hon’ble High Court in WPA 8486 of 2020 (Subhashis Chakraborty Vs. State of West Bengal & Ors.) and is subject to the outcome of the pending appeal.”

Learned counsel appearing for the petitioners submits that though the alleged contemnor no. 5/ BDO has issued the aforesaid order and also released the payment, but the said order is without any approval of the competent authority. Learned counsel points out that this Court by a judgment and order dated 7th April, 2022

had directed the respondents/ alleged contemnors to grant benefits of enhancement of finance and other benefits in terms of the Memoranda dated 28.05.2013, 06.12.2013, 25.02.2016 and 08.02.2019. He submits that in the Memorandum dated 16th September, 2011 it is categorically mentioned that the casual/ daily rated/ contractual workers who have rendered ten years of service continuously with at least 240 days attendance each year may remain engaged in the same status and capacity till their attaining the age of sixty years but in the compliance order it is not clarified whether the petitioners shall continue in the said capacity till the age of sixty years.

Learned counsel for the petitioners also submits that there are further conditions which have been laid down in the subsequent Memorandums but those conditions have also not been specified in the order dated 3rd August, 2023.

Learned counsel appearing for the alleged contemnors submits that the alleged contemnors have complied the order under contempt and already released the amount and the petitioners are continuously getting their salaries from the Government exchequer and as such the apprehension of the petitioners that the respondents/ alleged contemnors will terminate the service of the petitioners after the disposal of the instant contempt applications is not correct.

Learned counsel for the alleged contemnors further submits that the petitioners shall get the similar benefits in terms of the Memorandums on the basis of which this Court has directed to grant benefits to the petitioners.

Considering the submissions of the learned counsel for the respective parties, it appears that the alleged contemnors have issued the order without approval of the competent authority, i.e. either by the Secretary or the Joint Secretary of the concerned department.

On the earlier occasions, the alleged contemnors have given the benefits of the said Memorandums to some other persons who are similarly situated with the petitioners and while giving such benefits of the said Memorandums, the alleged contemnors have passed the following orders :-

“In Pursuance of Finance Department Memorandum No. 9008-F (P) dated 16/09/2011 read with their Memorandum No. 4011-F (P) dated 20/05/2013 and Memorandum No. 1107-F(P) dated 25/02/2016, this is to state that Sri Deb Prasad Saha, a casually engaged Clerk Cum Typist, (R W P) of Bolpur Sriniketan Development Block, Birbhum, was engaged against a vacancy of a sanctioned post in the R.D. Set up of that Block on 01/09/2008.

Since then, Sri Deb Prasad Saha, has remained engaged to the said established in the same capacity continuously without any break with at least 240 days of attendance each year and has now rendered more than 10 (ten) years of such continuous service satisfactorily till date. Block Development Officer, Bolpur Sriniketan Development Block, Birbhum has issued the necessary certificate in this respect in terms of sub-para (i) of Finance Department Memorandum No. 9908-F(P) dated 16/09/2011.”

Learned advocate appearing for the alleged contemnor no. 1 fairly submits before the Court that there is no approval from the competent authority and as such this Court directs the Joint Secretary, Department of Panchayats and Rural Development, Government of West Bengal to file an affidavit clarifying that whether the order issued by the concerned BDO/ alleged contemnor no.5 dated 3rd August, 2023 is with the approval of the concerned authorities or not and the respondents/ alleged contemnors shall follow the guidelines as mentioned in

the Memoranda dated 28.05.2013, 06.12.2013, 25.02.2016, 08.02.2019 and 16.09.2011.

Let the said affidavit be filed within two weeks from date.

List this matter on 7th March, 2024.

Learned counsel appearing for the petitioners submits that the petitioner in WPA 8502 of 2020 namely Sajal Kumar Ghoshal is passed away.

Accordingly, CPAN 1400 of 2022 arising out of WPA 8502 of 2020 is dismissed as infructuous.

(Krishna Rao, J.)