

08.07.2025
Sl. No. 07
Ct No. 3
SG

WPA 715 of 2025

**Chandra Pratihar
Vs
The State of West Bengal & Ors.**

Mr. Shuvasish Sengupta,
Mr. Abhimanyu Banerjee,
Ms. Priyanka Yadav.

... for the petitioner

Mr. Sudipto Panda,
Ms. Ananya Neogi.

...for the State

Mr. Kallol Mondal, Sr. Adv.
Mr. Krishan Ray,
Mr. Souvik Das.

...for respondent no. 4

1. Affidavit-of-service is taken on record.
2. The petitioner by way of the present writ petition, challenges the order dated 19.11.2024 passed by the Mission Director, West Bengal State Urban Livelihood Mission and Director, State Urban Development Agency, whereby the petitioner's prayer for reinstatement to a contractual post under the respondent-municipality was rejected. While rejecting the prayer the authority granted liberty to the petitioner to apply for a suitable position, if and when any post is published subject to fulfillment of all necessary procedures and criteria, the case of the petitioner shall be considered in accordance with law.

3. This is the second round of litigation. The petitioner was initially engaged as a 'Community Organizer' of Arambag Municipality under the erstwhile programme of Swarna Jayanti Shahari Rojgar Yojana (SJSRY) presently known as National Urban Livelihood Mission (NULM) in the year 1999. She was re-designated as a 'Town Project Officer' and later re-designated as 'Assistant Project Officer' on temporary basis with effect from 13.07.2016. Her services were discontinued with effect from November, 2017. The petitioner challenged her termination by filing WPA 28892 of 2017. This Court vide order dated 21.06.2023 dismissed the said writ petition. Being aggrieved by the said impugned order dated 21.06.2023, the petitioner preferred an intra court appeal being MAT 1265 of 2023. The Hon'ble Division Bench vide order dated 09.04.2024 granted liberty to the petitioner to ventilate her grievance before responsible officer of administration who was directed to take a reasoned decision in accordance with law, after affording an opportunity of hearing to both the sides. The order dated 09.04.2024 reads as follows:-

"We have given our anxious consideration to the rival contentions of the parties. It cannot be disputed that the appellant was a contractual employee. Her service may have been governed by the relevant government orders. Such orders were issued only to give some certainty to the terms and conditions of service of contractual employees till regular rules and regulations were framed. A contractual employee, as

is well known, has no vested right to continue in service after the contractual period of engagement is over. However, such an employee cannot also be driven out at the whims of the concerned authority.

In the present case, the Municipality admits that no termination notice was served on the appellant. Therefore, whether or not the appellant was entitled to continue in service is something to be decided. This would also involve certain factual issues, which the writ Court may not be well equipped to decide.

Accordingly, we are of the view that the appellant should ventilate her grievance before a responsible officer in the administration who shall take an informed decision in accordance with law after hearing both the parties.

Accordingly, we grant liberty to the appellant/writ petitioner to make a detailed comprehensive representation to the respondent no.5 herein within a fortnight from date (April 23, 2024). If such a representation is made within the time period prescribed, the respondent no.5 shall take a reasoned decision thereon, in accordance with law and applicable rules and regulations, if any, within a period of eight weeks from the date of receipt of the representation, after granting opportunity of hearing to both the appellant and the Municipality. Depending on the decision, further action may be taken by the respondent no.5.

We make it clear that we have not adjudicated the merits of the appellant's case. The respondent no.5 shall take an independent unbiased decision in the matter."

4. In compliance of the said order, the petitioner submitted a comprehensive representation dated 23.04.2024. Pursuant thereto and after granting an opportunity of hearing, the respondent authority passed the impugned order dated 19.11.2024, rejecting petitioner's representation. Aggrieved thereto the petitioner has preferred the present writ petition.

5. This Court has heard the arguments advanced by the learned Counsel for the parties and has perused the materials placed on record.

6. However, a bare perusal of the order dated 19.11.2024 reveals that the authority proceeded to consider question of reinstatement, without first deciding the foundational issue of whether the petitioner's termination was valid in the absence of any formal termination order. Thus, the authority failed to adjudicate the core issue as directed by the Hon'ble Division Bench in MAT 1265 of 2023.

7. In view thereof, this Court is of the considered opinion that the impugned order dated 19.11.2024 is not in conformity with the directions issued by the Hon'ble Division Bench in MAT 1265 of 2023 and is, therefore, set aside.. The matter is remanded back to the concerned respondent authority for fresh consideration of the petitioner's comprehensive representation dated 23.04.2024, strictly in view of the directions contained in the order dated 09.04.2024 passed in MAT 1265 of 2023. The authority shall afford an opportunity of hearing to both the sides as enumerated in the order of the Hon'ble Division Bench. A reasoned and speaking order shall be passed by the authority within a period of eight weeks from the date of communication of this order. The final order shall be communicated to the petitioner within a period of one week thereafter.

8. With the above direction, the present writ petition is disposed of.

9. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

10. There shall be no order as to costs.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)