

07.07.2025
SI No.41
Court No.8
(gc)

MAT 79 of 2015

**The Director of Technical Education and
Training, Government of West Bengal
Vs.
Nandalal Das & Ors.**

Mr. Tapan Kr. Mukherjee, Sr. Adv.,
Ms. Tuli Sinha

...for the Appellant.

Mr. Arunava Banerjee,
Ms. Simantika Dasgupta,
Ms. Ritika Mandal,
Mr. Sk. Qareeb

...for the Respondents.

Soumen Sen, J. (Oral):

1. The appeal is arising out of an order dated 19th June, 2014 passed by the learned Single Judge in which the writ petitioners were appointed as Cook, Kitchen Staff, Ward Staff, Helper, Assistant Helper and Kitchen Attendant in the hostel of Rupnarayanpur, Polytechnic, and I.T.I., Rupnarayanpur, Burdwan. The petitioners were recruited in accordance with Recruitment Rules and upon observing all the procedures and formalities prescribed under the Statute and were denied of regular status of permanent Group-D employees and scale of pay and service benefits as admissible under Rule like Group-D employees. The learned Single Judge on consideration of the nature of work and that they were selected through proper selection process, appointment letter was issued by the

Principal of the College at the relevant point of time and also taking into consideration that they were in continuous service and their pay fixation was made immediately after their appointments, granted reliefs to the writ petitioners. The writ petitioners in terms of the impugned order would be entitled to get status of permanent regular Group-D employees of the colleges forming the subject matter of the writ petition. This order is under challenge.

2. On the earlier occasion, we request Mr. Tapan Kr. Mukherjee, learned Senior Counsel to ascertain whether the subject matter of challenge in SLP (C) Diary Nos.28253-28254/2019 decided on 4th March, 2022 arising out of an order and judgment dated 20th February, 2019 and another SLP (Civil) Diary No.46155 of 2023/2023 decided on 12th January, 2024 arising out of an order and judgment dated 22nd March, 2023 in FMA No.3477/2016 involved similar question of law. The Special Leave Petitions were dismissed by affirming the orders passed by the Coordinate Benches.
3. Having regard to the nature of the dispute canvassed in the judgments challenged before the Hon'ble Supreme Court as mentioned above, it is difficult for the State to take a contrary

stand in this proceeding. It is now being frantically contended that the learned Single Judge clearly erred in deciding the said matter as the issues involved are required to be decided by the State Administrative Tribunal as they claim absorption and status of regular employees under the State. As pointed out on behalf of the writ petitioners, similar issues were raised in which both the Special Leave Petitions were dismissed. Moreover, from the compilation of the documents produced before us it appears that the Director of Technical Education and Training, West Bengal on 21st November, 2014 opined that having regard to the judgment passed by the Division Benches and the decision of the Principal Secretary, Higher Education Department as reflected in the Memo dated 28th October, 2014 where in principally it was decided that they should be treated as Group-D Government employees, it would be difficult to deny the claim of the present writ petitioners. In fact, a proposal was already forwarded to the Government for implementing the said policy which was adopted by the Higher Education Department vide Memo dated 28th October, 2014 and in terms of such Memo, the Hostel/Mess employees of Government and sponsored polytechnic was treated to be as Group-D

Government employees vide the office memo no.2416-TET dated 13.11.2014.

4. The instant case not being distinguishable on facts cannot be treated differently and they would be entitled to the same benefits and reliefs as the writ petitioners were claimed for similar reliefs was upheld by the Coordinate Benches and the Special Leave Petitions against both the judgments of the Coordinate Benches were dismissed.
5. The State is unable to show that circumstances are dissimilar or there are distinguishable facts. The decisions of the Coordinate Benches laying down the law in respect of similarly placed and circumstanced employees are binding on this Division Bench.
6. In view thereof, the appeal stands dismissed.
7. However, there shall be no order as to costs.
8. The time to comply the order passed by the learned Single Judge is peremptorily extended by eight weeks from date.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Smita Das De, J.)