

26.03.2025
Item No.11
Ct. No. 30
Aloke

WPA 4643 of 2023

Shibani Saha
Vs
The Principal Secretary, Large Industries &
Enterprise Department, Government of West
Bengal & Ors.

Mr. Anirban Kar
Mr. Md. Sahidullah Mridka
Mr. Munshi Ashiqu Elahi
Ms. Vedatri Bhattacharya
Mr. Snigdha Das
Mr. Rohit Mahato
... for the petitioner

The present writ application has been preferred for direction upon the respondents to act in terms of Memo No. 9008/F(P) dated 16.09.2011, Memorandum being No. 4011/F(P) dated 20th May, 2013 and Finance Department's Memo No. 1107-F(P) dated 25.02.2016 and to pay arrears to the petitioner in terms of Memo No. 9008/F (P) dated 16.09.2011, Memorandum being No. 4011/F (P) dated 20th May, 2013 and Finance Department's Memo No. 1107-F(P) dated 25.02.2016.

In course of hearing the parties have relied upon an order in a similar case passed by a Coordinate Bench in WP 5694(W) of 2018 vide order dated 12.11.2018.

Vide the said order the Coordinate Bench granted the benefit of the circular dated 25.02.2016 to the petitioner therein along with arrears.

The petitioner herein joined Neo Pipes & Tubes Co. Ltd. on 18.04.2005 and rendered continuous service till 03.07.2015.

The petitioner thereafter was redeployed in the office of the District Magistrate, North 24 Parganas.

It is the contention of the State that the petitioner's initial engagement with Neo Pipes & Tubes Co. Ltd. was not against any sanctioned post and that the petitioner is not directly engaged by the office of the District Magistrate concerned.

It appears that the Circular dated 16th September 2011 was meant to provide benefits akin to permanent employment without however terming them as permanent employees under the State. The circular dated 26.02.2016 refers to the 2011 circular.

From the materials on record, it appears that the petitioner has been continuously engaged since 2005 and re-deployed under the office of the District Magistrate, North 24 Parganas. Her services has been used by the State for a long period and, as such, the contention of the State that the original engagement is not regular is discretionary and arbitrary as held by the Coordinate Bench violative of Articles 14 and 16 of the Constitution.

Considering the observations of the Coordinate Bench and the materials on record, the writ petition is allowed.

It is directed that the petitioner shall be afforded the benefit of the aforesaid Circular dated 25.02.2016 and shall be paid her current emoluments on the revised scale as proposed therein. The petitioner shall also be entitled to arrears of any wages and emoluments payable to him on and from 25.02.2016.

WPA 4643 of 2023 is accordingly disposed of.

There will be no order as to costs.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Urgent photostat certified copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Shampa Dutt (Paul), J.)