

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 9110 of 2016

Panchanan Adhikary & Ors.

-Vs-

The State of West Bengal & Ors.

For the Petitioners	: Mr. Swapan Kumar Nandi
For the State	: Ms. Tuli Sinha
Heard on	: 19.06.2024, 24.07.2024, 27.09.2024, 26.11.2024
Judgment on	: 19.05.2025

Ananya Bandyopadhyay, J.:-

1. The rudimentary issue raised by the petitioners being Civil Defence Volunteers, concerned their claim to seek parity with the casual/daily rated/contractual workers in view of the Memorandum No. 9008-F(P) dated 16th September, 2011.
2. The petitioners, who were Civil Defence Volunteers trained by the Government of West Bengal, were engaged as guards by the Public Works (Roads) Department through orders issued by the Assistant Engineer, Hooghly Highway Sub-Division. Their engagement was extended periodically, and they performed their duties under the supervision of relevant Civil Defence and PWD authorities. Despite being entitled to an

enhanced daily allowance from 01.12.2010, they continued to receive a lower rate. Various authorities, including the District Magistrate and the Department of Civil Defence, acknowledged their engagement and recommended the release of enhanced allowances. A memorandum dated 16.09.2011 stated that casual/contractual workers who completed ten years of service before 01.07 annually (and not engaged after 01.04.2010) were entitled to continued engagement up to 60 years of age. The petitioners, engaged since March 2008, claimed to fall within this category and filed multiple representations seeking regularization and the benefits of the memorandum.

3. However, despite repeated requests and a demonstrated need for their services, the petitioners were informed in September 2014 that their services would not be extended beyond 18.10.2014. This was followed by further internal correspondence acknowledging the shortage of guards and recommending their continued engagement. On 25.02.2016, a further memorandum (No. 1107-F(P)) reaffirmed the entitlement of casual/contractual workers to remain in service until the age of 60, with benefits such as medical facilities, leave, and annual increment, subject to terms outlined in the 2011 order. Based on these facts, the petitioners are seeking a writ of mandamus for reinstatement, continuity of service, application of the enhanced benefits, and withdrawal of the impugned order dated 24.09.2014 discontinuing their services.
4. The learned advocate for the petitioners contended that the disengagement of the petitioners without any justification, notice, or opportunity of hearing

was arbitrary, illegal, mala fide, and in gross violation of the government memoranda dated 16.09.2011 and 25.02.2016, which guaranteed continued employment of such workers up to 60 years of age. The disengagement deprived the petitioners of their right to livelihood, pushing them into financial hardship. It was argued that this action violated Articles 14, 16, and 21 of the Constitution of India, which guarantee equality before law, equal opportunity in public employment, and the right to live with dignity. Despite repeated representations and evidence of satisfactory service, the authorities did not respond, while similarly placed Civil Defence Volunteers continued to be engaged, giving the petitioners a legitimate expectation of renewal and regularization.

5. To support their case, the petitioners relied on several judicial precedents. These include Supreme Court decisions affirming that public employees are entitled to continue in service until superannuation unless terminated through just and fair procedure (1991 SCC (L&S) 1213), and that arbitrary State action is subject to judicial review (1991 SCC (L&S) 742). They cited rulings recognizing legitimate expectations in public law and stressing the State's obligation to act as a model employer (1993 (2) CLJ 303). Other references include judgments on the necessity of reasoned orders, entitlement of casual workers to equal pay for equal work, and recognition of regularization rights for workers in stop-gap arrangements. These authorities collectively establish that the termination of the petitioners' service was procedurally and substantively flawed and that their claim for reinstatement and benefits is legally sustainable.

6. The learned advocate for the State submitted that the petitioners were Civil Defence Volunteers deputed in 2008 on a requisition by the Executive Engineer, Hooghly Highway Division-I, for guarding duties, and were paid as per government orders applicable to volunteers. Their services were voluntary in nature under the Civil Defence Act, 1968, and thus cannot be equated with casual, daily-rated, or contractual workers. The Finance Department's memorandum dated 16.09.2011 (Memo No. 9008-F(P)) allows continuation of such workers till 60 years of age only if they have rendered 10 years of continuous service with at least 240 days of attendance each year. The petitioners, who had not completed the requisite 10 years of service, do not qualify under that provision.
7. Furthermore, the State contended that as per the Finance Department's memorandum dated 25.02.2016 (Memo No. 1107-F(P)), benefits are extended only to workers who fulfill conditions laid down in the 2011 memorandum. Since the petitioners were engaged as volunteers, were aware of the temporary nature of their engagement, and accepted the terms including training in 2007, their claim for permanent employment or continuation until 60 years is not legally sustainable. The State argued that all payments were made as per rules, and the petitioners' current claims fall outside the scope of existing regulations and are therefore not maintainable.
8. The writ petition was filed by a group of individuals who had been engaged as Civil Defence Volunteers under the Department of Civil Defence, Government of West Bengal. The petitioners had sought a writ in the nature of mandamus, challenging the orders dated 16th September 2011, 24th

September 2014, and 25th February 2016. They prayed for a direction upon the respondent authorities to allow them to continue in service up to the age of 60 years and not to give effect to the order dated 24th September 2014, whereby their engagement had been disallowed. The petitioners further sought a direction upon the respondents to withdraw the said order and allow them to continue in their existing duties, along with the benefit of enhanced allowances as per Memo No. 1107-F(P) dated 25th February 2016, and other relevant government communications.

9. The petitioners had successfully completed their training in Civil Defence and were thereafter engaged by the Assistant Engineer, Hooghly Highway Sub-Division, P.W. (Roads) Department under the Government of West Bengal, by an order dated 7th March 2008. Their duties primarily involved guarding government properties and materials at various stockyards and offices. Their engagements had been extended from time to time through written memorandums issued by the said office. The petitioners had performed their duties without interruption, and such engagement was duly approved by the appropriate authorities of the Civil Defence Office, Hooghly.
10. Although they continued to receive a daily allowance at the rate of Rs.141.71, the petitioners did not receive the enhanced rate of Rs.289 per day as sanctioned by the concerned authority through O.D. No.682 Sanctioned/CD/HCD 19/95 dated 3rd October 2011, effective from 1st December 2010. In this context, the District Magistrate and Controller of Civil Defence, Hooghly addressed a letter dated 4th April 2012 (Memo No. 81/CD/12) to the Joint Secretary, Department of Civil Defence, requesting

formal approval for the engagement of the petitioners so they could be brought within the ambit of the enhanced allowance.

11. Subsequently, by a letter dated 8th June 2012 (Memo No. 1196-CD/(I)/N/2E-12/2012), the Assistant Secretary, Department of Civil Defence, conveyed that the department had no objection to the approval of the list of Civil Defence Volunteers, which included the petitioners. This approval was to be forwarded to the Assistant Engineer, Hooghly/Serampore Highway Sub-Division, P.W. (Roads) Directorate, to facilitate implementation of the enhanced duty allowance without delay.
12. On 16th September 2011, the Government of West Bengal issued a memorandum (Memo No. 9008-F(P)) to provide regularisation in tenure, emoluments, and terminal benefits to casual, daily-rated, and contractual workers engaged in different government establishments. The memorandum stipulated, inter alia, that those engaged prior to 1st April 2010 and having completed ten years of service would be brought within the purview of the scheme. According to the petitioners, they had all been engaged since March 2008 in sanctioned vacancies and had thereby become eligible under Clause (v) of the memorandum for continued engagement up to 60 years of age.
13. Despite repeated representations, including one dated 16th September 2013 and another on 23rd June 2014, the petitioners' services were not regularised or re-engaged. They later became aware that the respondent department had initiated recruitment for a new batch of Civil Defence Volunteers, and several further representations were submitted by them requesting the authorities not to discontinue their services.

14. On 24th September 2014, the Executive Engineer, Hooghly Highway Division-I, P.W. (Roads) Department, conveyed to the Additional District Magistrate and Controller of Civil Defence, Hooghly, that the petitioners' services would not be extended beyond 18th October 2014. The petitioners made further appeals, and by a letter dated 18th September 2014, the Assistant Engineer, Serampore Highway Sub-Division, P.W. (Roads) Directorate, wrote to the Executive Engineer, Hooghly Highway Division No.1, P.W. (Roads) Directorate, noting that six Civil Defence Volunteers were still urgently required due to a shortage of guards in the Sub-Division, and that the petitioners' service had been satisfactory even after the extended period had expired.
15. The Finance Department, Government of West Bengal, through Memo No. 1107-F(P) dated 25th February 2016, extended certain service benefits to all categories of contractual, casual, and daily-rated workers. These included revised remuneration, enhanced tenure of service, annual increments, medical and leave benefits, and conditions of engagement that allowed continuation of service up to the age of 60 years. The said memorandum reaffirmed that workers covered under Memo No. 9008-F(P) dated 16th September 2011 would be governed under its provisions.
16. The petitioners asserted that despite being included in the approved list of Civil Defence Volunteers and performing duties for several years in sanctioned posts, their services had been arbitrarily discontinued, and the benefits under the government memoranda had been withheld. They prayed for an order directing the authorities to reinstate them and to grant them

the benefits as per the memoranda mentioned above, including the right to continue service until 60 years of age.

17. The materials placed on record included the relevant government orders and memoranda—Memo No. 9008-F(P) dated 16.09.2011 and Memo No. 1107-F(P) dated 25.02.2016—as well as the administrative correspondences, including Memo No. 81/CD/12 dated 04.04.2012 and Memo No. 1196-CD/(I)/N/2E-12/2012 dated 08.06.2012. The challenge was to the order dated 24.09.2014 issued by the Executive Engineer, Hooghly Highway Division-I, discontinuing the engagement of the petitioners, which the petitioners contended was in derogation of the applicable government circulars and administrative approvals.
18. The learned Advocate representing the petitioners argued as follows. It was contended that the decision of the concerned respondent authorities to disengage the petitioners from their respective services and replace them with other persons was taken arbitrarily, without assigning any proper reason or providing the petitioners an opportunity of being heard. The learned Advocate submitted that such an action was in contravention of Government Orders dated 16th September 2011 and 25th February 2016, which had stipulated that workers of the category to which the petitioners belonged were entitled to continue in service until the age of 60 years. The learned Advocate further stated that the withdrawal of the petitioners' engagement resulted in a disruption of their source of livelihood, which was protected under the applicable government policy framework.

19. The learned Advocate submitted that the rights accrued to the petitioners pursuant to the 2016 memorandum included a legitimate expectation of continued employment until superannuation. It was further stated that these rights could not be taken away without notice, especially since the petitioners had been engaged in government establishments since March 2008 and were discharging their duties in sanctioned posts under the Department of Civil Defence. The petitioners had made repeated representations before the competent authorities, including a representation dated 18th September 2014, by which the Assistant Engineer, Serampore Highway Sub-Division, P.W. (Roads) Directorate informed the Executive Engineer, Hooghly Highway Division No. 1, P.W. (Roads) Directorate of the urgent requirement of six Civil Defence Volunteers for guarding various section offices and stockyards. It was highlighted that this communication had specifically referred to the satisfactory nature of the petitioners' service even beyond the date of their proposed disengagement.
20. It was argued that the petitioners' right to be engaged till 60 years of age under the 2016 memorandum constituted a form of legal entitlement that could not be abrogated summarily. Moreover, the learned Advocate pointed out that similarly placed individuals who were also Civil Defence Volunteers had continued to serve in their posts and had their services renewed periodically. The petitioners, therefore, had a reasonable and legitimate expectation of renewal or continuation of service, which had been denied to them without justification.

21. The learned advocate relied upon several judicial pronouncements in support of the petitioners' case. Reference was made to the judgment reported at 1991 SCC (L&S) 1213, where the Hon'ble Supreme Court held that government servants were entitled to continue in employment until superannuation unless terminated through a fair and reasonable procedure. In the same case, the Hon'ble Supreme Court had observed that the right to livelihood could not be denied arbitrarily, and that administrative actions must adhere to principles of fairness and legality, as enshrined under Articles 14 and 21 of the Constitution.
22. Reliance was also placed on 1991 SCC (L&S) 742, where the Hon'ble Supreme Court reiterated that arbitrary actions by the State in relation to posts of a public nature could attract judicial review under Articles 14, 32, and 226 of the Constitution. In 1993 (2) CLJ 303, a bench of this Court had examined the nature of services rendered by members of the West Bengal National Volunteer Force and held that their engagement was not voluntary in nature and that they were entitled to continuous employment. In that decision, it was also recognised that legitimate expectation may arise either from a promise made by a public body or from its consistent past practices, and that such expectations could not be denied without affording a hearing.
23. The learned Advocate placed reliance on the decision reported at 2008 (2) SCC (L&S) 1014, where the Hon'ble Supreme Court, following the principle in *Bhag Singh v. Union of India*, (2004) 1 SCC 547, held that all administrative or judicial orders must be reasoned or speaking orders. In the absence of reasons, the order is liable to be set aside. In support of the

petitioners' claim for parity of treatment, the decision reported at 1998 (1) SCC 122 was also cited, in which the Hon'ble Supreme Court held that daily-rated workers doing similar work as regular employees were entitled to minimum pay as per the scale applicable to regular workers, although without increments. In that case, the Hon'ble Supreme Court also took note of Article 7 of the International Covenant on Economic, Social and Cultural Rights, 1966.

24. The learned Advocate referred to AIR 1990 SC 2228, where the Hon'ble Supreme Court held that temporary appointments made as a stop-gap arrangement, if continued over an extended period, could entitle the employee to regularisation if the requisite qualifications were met. In another decision reported at AIR 1991 SC 1310, the Hon'ble Supreme Court observed that even if an order of termination was issued in accordance with the terms of engagement, the Court could still examine whether such termination was penal in nature and liable to be set aside.
25. On the basis of the above authorities, the learned Advocate submitted that the actions taken by the respondent authorities, including the issuance of the order dated 24th September 2014, discontinuing the services of the petitioners, were not in conformity with the applicable legal principles. It was reiterated that the petitioners were similarly situated as others who continued in service, had satisfactory service records, and were engaged in sanctioned posts. Their disengagement, it was argued, amounted to an unjustified deviation from established government policy, particularly in light of Memo No. 1107-F(P), dated 25th February 2016, and Memo No.

9008-F(P), dated 16th September 2011, both of which recognised the right of certain categories of workers to continue till the age of 60 years.

26. The learned advocate representing the State argued as follows. It was submitted that the engagement of the petitioners had originated from a requisition made by the Executive Engineer, Hooghly Highway Division-I, Public Works (Roads) Directorate, under Memo No. 205 dated 1st February 2008. Based on this requisition, the District Magistrate and Controller of Civil Defence, Hooghly, issued an order dated 7th March 2008, by which the petitioners were deputed for guarding duties under the said Executive Engineer. Their duty allowance was fixed at Rs.127.71 per head per day, in accordance with Government Order No. 04/Sanction/CD/N/C/II-9/95 dated 14th February 2008. This allowance was revised periodically, and it was stated that during the period from 2008 to 2014, each petitioner had received a total consolidated sum of Rs.6,24,915/- (Rupees six lakh twenty-four thousand nine hundred fifteen only).
27. It was further submitted that as per Memo No. 9008-F(P) dated 16th September 2011 issued by the Finance Department of the Government of West Bengal, contractual engagement may be made for a maximum period of six years and not beyond that. The learned Advocate for the State contended that the Civil Defence organisation was primarily intended to function on a voluntary basis as an integral part of national defence. Accordingly, the petitioners, being Civil Defence Volunteers, were engaged on a voluntary basis and their engagement could not be equated with that of daily-rated, casual, or contractual workers.

28. The learned Advocate submitted that clause (i) of the said Government Order dated 16th September 2011 clarified that only those casual, daily-rated, or contractual workers who had rendered at least ten years of continuous service with a minimum of 240 days of attendance per year could continue in service until the age of 60 years. In the present case, it was argued that the petitioners had not completed ten years of such service and, therefore, were not entitled to the benefits contemplated under the said clause.
29. It was further submitted that the petitioners had undergone the usual training course for Civil Defence Volunteers, conducted from 21st May 2007 to 25th May 2007. Their deployment was effected following the requisition from the Assistant Engineer, Hooghly Highway Sub-Division, P.W.D. (Roads) Department. Their engagement was extended periodically by the said authority until the year 2014. The remuneration paid to the petitioners was consistent with the applicable policy for volunteer services.
30. The learned Advocate for the State also referred to Memo No. 1107-F(P) dated 25th February 2016 issued by the Finance Department, Government of West Bengal. It was submitted that this memorandum reiterated that benefits outlined under Memo No. 9008-F(P) dated 16th September 2011 would be available to casual, daily-rated, and contractual workers, but only upon satisfaction of the conditions prescribed therein. Since the petitioners had not fulfilled those eligibility criteria, particularly the requirement of ten years of continuous service, the benefits could not be extended to them.

31. It was therefore argued that the petitioners, being Civil Defence Volunteers, had received payments in accordance with the rules governing such engagement. The arguments made on behalf of the petitioners were contended to fall outside the scope of the existing legal framework, as detailed in the affidavit-in-opposition filed by the State Government in earlier proceedings. The State submitted that the petitioners had accepted their roles with full knowledge of their voluntary nature and had undergone the requisite training in 2007. Their claims in 2024, it was submitted, were not maintainable in law.
32. The order dated 07.03.20208 passed by the District Magistrate & Controller of Civil Defence, Hooghly, whereby the petitioners were deputed to the end of the Executive Engineer, Hooghly Highway Division-I, PWD (Roads) is replicated as follow:-

*“GOVERNMENT OF WEST BENGAL
OFFICE OF THE CONTROLLER OF CIVIL DEFENCE
HOOGHLY*

Memo No. : 46/CD/08

Dated: 7-3-2008

*From : The District Magistrate & Controller of Civil Defence
Hooghly*

*To : The Executive Engineer
Hooghly High Way Division –I
Public Works (Roads) Directorate*

*Sub: - Requisition of 6 (Six) Nos's Civil Defence Volunteers
Ref: No. 205. Dt: 01-02-08*

With reference to the above mentioned subject this is to inform him that 6 (six) No's of following Civil Defence Volunteers of Hooghly CD Organisation are sending herewith for 3 (three) month of guarding duty of Govt. of

Offices/properties & Materials at different stockyards under Asstt. Engineers, Hooghly Highway Sub-Division, Hooghly.

The Civil Defence Volunteers deputed to your end may be withdrawn in case of any emergent situation as and when necessary.

The volunteers may paid duty allowance of Rs.127-71. (Rupees one hundred twenty seven and seventy one paisa) only vide G.O. No-042/sanction/CD/N/C/II/H.R.-9/95. Dt – 14.02.2008 per head as per enclosed GO of Deptt – of Civil Defence which may be increased time to time from your end.

He is also requested to inform this office after their joining.

<u>Sl. No.</u>	<u>Name of CD volunteers</u>	<u>Address</u>
1.	Sri Sudip Kumar Sadhukhan S/O Krishna Chandra Sadhukhan	109, Khagrazol Road, PO – Chinsurah, Dt: Hooghly, Pin – 712101
2.	Sri Tarak Nath Saha S/O Late Surendra Mohan Saha	2/207 Kapasdanga, PO+Dt – Hooghly, Pin- 712103
3.	Sri Panchanan Adhikari S/O Gopal Ch. Adhikari	G.N. Mukherjee Road, PO – Bansberia, Dt-Hooghly, Pin – 712502
4.	Sri Asoke Kumar Panda S/O Late Jagannath Panda	Jagudas Para Jora Manditala, PO+Dt-Hooghly, Pin – 712103
5.	Sri Sanjoy Chatterjee S/O Phatick Chatterjee	805 Pearbabagar Road, PO+Dt-Hooghly, Pin-717103
6.	Monoj Goswami S/O Late Petambar Goswami	Uttar Chandannagar, PO- Buroshibtala, Dt-Hooghly, Pin- 712105

*Dy. Controller of Civil Defence
Hooghly*

Memo No.: /CD/08

Dated:

Copy forwarded for information & necessary action to:-

1. C.A. to D.M. Hooghly
2. Sri _____ directed to report Executive Engineer, Hooghly Highway Division-I, Hooghly Vivekanda Road, Pipulpati, Hooghly with immediate effect.

*Dy. Controller of Civil Defence
Hooghly”*

33. The Memorandum being Memo. No. 9008-F(P) dated 16th September, 2011 issued by the Finance Department, Government of West Bengal is replicated as follows:-

*“Government of West Bengal
Finance Department
Audit Branch*

No. 9008-F(P)

Kolkata, the 16th September, 2011

MEMORANDUM

In order to provide security of tenure, appropriate emoluments and certain terminal benefits subject to fulfilment of certain conditions to the casual/daily rated/contractual workers who have remained engaged in various Government Establishments for a considerable period of more than 10 years in connection with implementation of various schemes/projects of various Departments of the government two Memorandums vide No. 2966-F(P) dt. 23-04-2010 and No. 11794-F(P) dt. 22-12-2010 were issued by the Government in Finance Department.

The question of making provisions of the two aforesaid orders more effective and suitable to the convenience of the Government Establishments/Organization has been under active consideration of the Government for some time past.

After careful consideration of the matter and in suppression of the aforesaid orders and all others orders issued by other Departments in the matter, the undersigned is directed by order of the Governor to say that the Governor, has now been pleased to order that the casual/daily rated/contractual workers, who are remaining attached to various establishments of the Government Departments/Directorates/Regional Offices/other Organizations for

not less than 10 years continuously as on 01-08-2011 and have rendered service for at least 240 days each year will be allowed the following benefits:

- (i) *The casual/daily rated/contractual workers who have rendered 10 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 60 years.*

The continuity of service shall have to be certified by a competent officer not below the rank of Assistant Secretary in the case of a Secretariat Department, Director in the case of a Directorate and Assistant Engineer/S.D.O/B.D.O in the case of Regional Offices. The concerned officer, who certifies may be advised to exercise extreme precautions and take assistance of an office of WBA & AS, if necessary."

34. The petitioners, having successfully completed Civil Defence Volunteer training under the Government of West Bengal, were engaged from March 2008 by the Assistant Engineer, Hooghly Highway Sub-Division, P.W. (Roads) Department, to guard government properties. Their service was regularly extended and approved by the Civil Defence authorities, though they were not paid the enhanced daily allowance of Rs.289 despite official sanction. The District Magistrate, Hooghly, had sought approval for their engagement, which was granted by the department, instructing that they be paid the revised allowance.
35. The engagement was voluntary under the Civil Defence Act, 1968, and distinct from daily-rated or contractual workers. According to the Government Memorandum dated 16.09.2011, casual or contractual workers are eligible for extension of service up to 60 years only if they have completed ten years of continuous service with adequate attendance, a condition the petitioners did not satisfy. The petitioners underwent a

training course in 2007 and accepted the terms of their voluntary engagement, which was extended periodically until 2014.

36. Relying on a Government Memorandum dated 16.09.2011, which granted casual/daily rated/contractual workers continued engagement up to 60 years of age if appointed before 01.04.2010 and had completed 10 years of service, the petitioners submitted multiple representations seeking regularization and extension of service. However, on 24.09.2014, they were informed that their engagement would end on 18.10.2014, despite a communication highlighting continued need for their services due to staff shortage. Later, the Finance Department issued another Memo on 25.02.2016 reiterating the right of such workers to remain in service up to 60 years of age, unless terminated per the earlier 2011 order.
37. The learned advocate for the petitioners contended that the decision to disengage the petitioners from their service was illegal, arbitrary, and mala fide, having been taken without any opportunity of hearing and contrary to Government orders dated 16.09.2011 and 25.02.2016 which entitled such workers to serve up to 60 years with prescribed remuneration. This abrupt termination deprived the petitioners of their livelihood, placing them in severe financial hardship. The petitioner's right to work until 60 years, recognized under the 2016 memorandum, cannot be taken away without notice. The actions violate Articles 14, 16, and 21 of the Constitution, as the right to livelihood is an intrinsic part of the right to life and must be protected with fairness and equality. Despite repeated representations, the respondents failed to address or even acknowledge the petitioners'

grievances. Moreover, similarly situated Civil Defence Volunteers continue to work uninterruptedly, creating a legitimate expectation for the petitioners' service renewal and regularization. The advocate relied on several authoritative precedents which reinforce the principles of equality, natural justice, legitimate expectation, and the constitutional right to livelihood. These include judgments emphasizing that state actions must be just, fair, and reasonable, that arbitrary deprivation of employment is unconstitutional, and that prolonged service by temporary employees may entitle them to regularization. The petitioners urged the court to quash the impugned actions, uphold their employment rights, and ensure justice in line with constitutional mandates.

38. The Directorate General, Fire Services, Civil Defence and Home Guards in its Official Website has broadly specified the objective, role, organisational effectivity, financial assistance, functioning and measures etc. of Civil Defence mechanism, the statutory provisions and policy to determine the same.
39. The study of the aforesaid principles of self-defence policy are succinctly elucidated as follows:

- a. The regulation of Civil Defence in India evolved in response to national security concerns and internal disasters. Prior to 1962, the Government of India, under the Emergency Relief Organization (ERO) Scheme, encouraged States and Union Territories to prepare civil protection plans for major cities. However, the Chinese aggression in 1962 and the Indo-Pak conflict in 1965 prompted a

reassessment of Civil Defence policy, leading to the enactment of the Civil Defence Act, 1968 (Act 27 of 1968). The Act applies across India and authorises protective measures for persons and property against hostile attacks, while also enabling the creation of Civil Defence Corps and related rules.

- b. The Civil Defence (Amendment) Act, 2009, notified as Notification No. 3 of 2010, expanded the scope of Civil Defence to include disaster management. Civil Defence personnel are now tasked with roles during natural and man-made emergencies. Though the Act applies nationwide, operational units are active in strategically sensitive districts. At present, Civil Defence operates in 259 categorised towns across 36 States and Union Territories, with 100 multi-hazard prone districts receiving special attention.
- c. Civil Defence aims to protect lives and property, maintain continuity of essential services, and support civil administration during crisis. Its role has expanded from conventional defence to include responses to nuclear, biological, chemical, and disaster-related threats.
- d. The organisation is primarily volunteer-based, supported by a small number of paid staff during emergencies. The target is 14.11 lakh volunteers, with 5.38 lakh already registered. Volunteers receive duty and training allowances and are trained by paid officers, including Deputy Controllers and Medical Officers. The Government seeks to scale this presence nationwide.

- e. Central financial support includes partial reimbursement to States for authorised Civil Defence activities. Northeastern States (excluding Assam) receive 50% reimbursement, while other States receive 25%. For 2017–18, ₹10 crore was allocated for this. A centrally sponsored scheme was launched in 2009 under the Eleventh Five Year Plan with a ₹100 crore outlay, which included setting up Civil Defence Training Institutes (CDTIs) in 17 States and infrastructure in 100 multi-hazard districts. A pilot project in 40 towns focused on internal security tasks. Another scheme for mainstreaming Civil Defence into disaster risk reduction was sanctioned at ₹290.89 crore for 2014–2019. During 2014–15, ₹15 crore was released to select States including West Bengal, Karnataka, and Kerala.
 - f. Civil Defence training occurs at local, state, and national levels. Volunteers are trained in emergency response during peacetime and assist in social and relief work. National-level training is conducted at the National Civil Defence College, Nagpur, while State Civil Defence Training Institutes and local trainers manage sub-national and grassroots training programmes.
40. The Regulation of Civil Defence, 1968 provided for the appointment for the Civil Defence Volunteers in the following manner.

“3. Eligibility.- (1) *A person who intends to apply for appointment to a Civil Defence Corps must fulfill the following conditions:-*

(a) he shall be a citizen of India, or a subject of Sikkim or of Bhutan or of Nepal;

(b) he shall have completed the age of 18 years provided that this age limit may be relaxed in the discretion of the competent authority unto a maximum of 3 years for any branch or category of the Corps;

(c) he shall have passed at least the primary standard, that is to say, the fourth class; and this condition may be relaxed by the Controller in his discretion.

(2) Both men and women shall be eligible for appointment to the Corps.

(3) A person shall not be entitled to be appointed to the Corps unless he is found to be physically fit and mentally alert.

(4) Any service in the National Volunteer Force and in the Armed Forces of the Union shall be a special qualification.

4. Manner of application.- *(1) Every person eligible for appointment under regulation 3 shall be required to apply in Form "A" and also present himself for interview before the competent authority.*

(2) Every candidate shall be required to produce a certificate from his employer agreeing to spare his service for training and duty, when so required.

(3) The Controller may, for advising him in the selection of candidates, constitute a Selection Committee which shall consist of such number of members and such persons as the Controller may determine and appoint.

(4) All candidates shall be required to undergo training and pass examinations prescribed by the competent authority.

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8. Conditions of Service.- *(1) The members of the Corps shall ordinarily serve in a voluntary and honorary capacity;*

Provided that the State Government may, by order, authorize payment of duty allowance (at such scales as may be prescribed by it from time to time in consultation with the Central Government) to a member of the Corps when called on duty.

(2) Notwithstanding anything contained in clause (1), the Central Government may declare any appointment or class of appointments as paid appointments. A person appointed on the basis of payment shall be entitled to such conditions of service as regards pay, leave and other benefits as the State Government may, by order, prescribe.”

41. A volunteer is “a person who offers or agrees to do something without being forced or paid to do it.” A volunteer, therefore, is driven to objectify certain action through his or her own volition, will, choice or consent, deliberately willingly and intentionally. A volunteer’s will is unconstrained, spontaneous, free from interference and external compulsion to engage in any kind of work.
42. The petitioners working as civil defence volunteers to the best of their knowledge and intent are debarred to be treated as contractual and daily rated workers. The cardinal principle of enlisting the petitioners as volunteers for certain dynamic civil orientation against a sum of honorarium cannot be equated as a remuneration. They had been entrusted with certain responsibilities to accomplish specific purposes against statutory guidelines as aforesaid and subsequently cannot seek advantage on the basis of the issuance of the Memorandum No. 9008-F(P) dated 16th September, 2011.

43. The basic principle of Civil Defence is to protect and safeguard public life and interest during emergencies and disasters commanding the dedication and volition of the volunteers which they have rationally as a motto of self-service agreed to opt for without any compulsion or any contract creating an employer-employee relationship, legally binding in nature with its peculiarities, to be strictly adhered to, whereby non-compliance of any terms and conditions of such contract by either of the parties, will be subjected to violation of provisions of Service Law, Rules and Regulations.
44. The petitioners had been appointed strictly following the provisions of the Civil Defence Regulation, 1968. They underwent training according to the aforesaid statute. They served for a period from 2008 to 2014 against the honorarium paid to them being engaged as Civil Defence Volunteers based on requisition of the Executive Engineer, Hooghly Highway Division – I to act as guards by the Public Works (Roads) Department. The petitioners being aware of the nature and scope of their job under the Civil Defence Act, 1968 in order to render service as volunteers entitled to honourarium opted for a self-determining service abandoning to any professional gain, profit and usufruct for devoting their time and effort to such public service about to Disaster Management addressing natural and/or man inflicted emergencies ensuring protecting measures to save the life and property of the public against imminent, abrupt, sudden, unprecedented, hostile attacks or unforeseeable incident or act of God.
45. The petitioners themselves abandoned and decided to willfully forgo any financial benefit as salary as well as retirement benefits at the very

inception being aware of the fact that their services would be demanded exclusively on necessity and not as a contractual or a permanent worker associated with any company, department, institution serving the same as an employee forming a relationship with the employer in legal perspective. The petitioners thereafter cannot claim any financial advantage or to continue their service till the age of retirement where the employer-employee relationship had never been created from the very inception on the edifice of voluntary service to be discharged for a noble and novel cause explicitly devoted to humanitarian obligation. Any kind of economic or financial claim on the part of the petitioners are self-contradictory and beyond statutory provisions to entitle them to such financial claim as well as retirement benefits which will frustrate the entire objective of civil defence mechanism and the engagement of the petitioners as Civil Defence Volunteers without legal sanctity. The petitioners cannot claim any right or future interest for the service rendered by them which did not intend to credit any such benefit as claim by the petitioners through aforesaid statute and objective which would be unconstitutional and obfuscate the validity of the statute which created their existence as Civil Defence Volunteers and their claim to be ambiguous, dubious, prejudice and perfunctory. The petitioners are, therefore, treated at par with casual/daily rated/contractual workers claiming benefit in accordance with Memorandum No. 9008-F(P) dated Kolkata, the 16th September, 2011.

46. In view of the above discussions, the instant writ petition being WPA 9110 of 2016 is dismissed.

47. There is no order as to costs.

48. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)