

4th March, 2025
(D/L No.20)
Ct. No.4
(SKB)

W.P.S.T. 286 of 2010
With
CAN 1 of 2024
With
CAN 2 of 2024

Jayasree Biswas and others
Versus
The State of West Bengal and others

Mr. Swapan Kumar Nandi,
Mr. S. Nandi,
Ms. Banani Bhattaharjee
....for the petitioners.

Mr. Tapan Kumar Mukherjee, Id. AGP,
Ms. Sangeeta Roy
... for the State.

CAN 2 of 2024

1. Dismissed as not pressed.

CAN 1 of 2024

2. A plea has been taken that due to inadvertence the list could not be marked when the matter was dismissed in default on 31.08.2023. We find such plea to constitute sufficient cause for restoration of the writ petition. The prayer for restoration is allowed.
3. The application being CAN 1 of 2024 is disposed of.

Re: W.P.S.T. 286 of 2010

4. Since parties have made submissions on the merits of the matter, we proceeded to consider the writ petition.

5. It is apparent from the records that the petitioners' names were requisitioned by the Office of the Superintendent of the Krishnanagar District Correctional Home, Nadia for their engagement as "Extra Temporary Female Warders" for the Krishnanagar District Correctional Home.
6. Pursuant thereafter their physical capability were examined and they were subjected to a viva voce leading to issuance of engagement order/(s) dated 22.01.2009. The engagement is in the following terms:

"In pursuance of Prisons Directorate No.3896/WD-04/2008 Pt-I dated-01/12/2008 you are hereby provisionally selected for engagement as Extra Temporary Female Warders for Krishnanagar District Correctional Home for not more than 15 days in every month and you will be paid at the rate of minimum basic pay of permanent female warder.

You are hereby requested to report to the undersigned within 15 days from the date of issue of this letter failing which consideration for your engagement will be canceled."

7. Such being the nature of petitioners' engagement, the same was brought to an end after 31.03.2009. The petitioners thus approached the State Administrative Tribunal seeking directions that they be allotted duty and paid salary. They also raised an issue regarding others, who they claimed to be similarly situated, namely, the private respondent nos.7 to 10 before the Tribunal. It was the case of the applicant that these respondents were regularized, whereas the

petitioners have been discriminated against and the authorities have stopped allotting duties to the petitioners.

8. The learned counsel for the State, on the other hand, submits that the nature of engagement is obvious from a plain reading of the terms of engagement contained in the engagement order dated 22.01.2009. The engagement was clearly a temporary arrangement which was done for not more than 15 days in every month. Such being the nature of the engagement, the petitioners have no right whatsoever to claim continuity. In view of the nature of the engagement, they were allotted work till 31st March, 2009 and remuneration was paid accordingly. They are not in a position to make any further demands or to contend that before disengaging them there was any obligation on the part of the authorities to resort to the procedure for termination contained in the service rules applicable to a regular government employee.
9. Insofar as the claim of parity with the private respondent nos.7 to 10, the learned counsel for the State has submitted that the said private respondents were a class distinct from the present petitioners. They had been engaged long back and were regularized by the order contained at

Annexure P-4 in July, 2009. There is no scope for the petitioners to claim parity with the private respondent nos.7 to 10.

10. On consideration of the rival submissions, we find force in the submission advanced on behalf of the State.

11. The nature of petitioners' engagement is apparent from the engagement order, extracted above. All the petitioners were engaged on the same terms for performing some work of female warders for not more than 15 days in a month. The petitioners were not engaged for continuous work and their status was not even of full time contractual employees. We also must take into consideration the fact that the petitioners' contractual engagement for not more than 15 days in a month was for a very brief period of just over two months, from 22.01.2009 till 31.03.2009. The nature of temporary engagement does not entail application of service rules which are applicable to the permanent employees in the matter of their dismissal/termination.

12. Thus, the petitioners are not in a position to claim any right to continue beyond 31.03.2009. Such being the circumstance, we find no force in the submission of the petitioners' counsel that the

authorities should continue to take work from the petitioners and grant arrears of salary.

13. Insofar as the allegation regarding discrimination, it is apparent from the affidavit-in-opposition filed in the present proceedings that the State has taken a stand in paragraph 7 therein which establishes that the respondent nos.7 to 10 were working since long back, even before issuance of the G.O. No.460-HJ dated 15.03.2004 was issued by the Department of Jail (now Correctional Administration) prohibiting engagement of Extra Temporary Warder for a period of more than fifteen days either continuously or intermittently. The respondent nos.7 to 10 thus were not similarly situated as the petitioners.

14. Such assertions made in the affidavit-in-opposition have not been denied or disputed. The petitioners have only made bold, vague and general denials in respect of the said assertions. Therefore, there is no scope for alleging discrimination in the present case.

15. In view of the above consideration, we find no infirmity in the decision of the West Bengal Administrative Tribunal passed in the O.A. filed by the petitioner bearing O.A. No.936 of 2009 on

16.09.2009 rejecting the petitioners' claim for being allotted duty and consequential benefits.

16. The writ petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)