

05.03.2025
(D/L-6)
Ct. No.4
(B.K.N.)

W.P.S.T. 289 of 2010
With
CAN 3 of 2024
With
CAN 4 of 2024

Sabana Khatun
Vs.
The State of West Bengal & Ors.

Mr. Swapan Kumar Nandi,
Mr. Sizan Nandi,
Ms. Banani Bhattacharya,
Mr. Debjyoti Ghosh
...for the Petitioner

Mr. Tapan Kr. Mukherjee, Ld. AGP,
Mrs. Sangeeta Roy
...for the State Respondents

In Re: CAN 3 of 2024

A plea has been taken that the cause list could not be marked due to inadvertence, when the matter was listed and taken up on 31st August, 2023. The writ petition was thus dismissed in default. We find the plea of inadvertence to be sufficient cause for restoration. The writ petition is restored to its original file and number.

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

Application being CAN 3 of 2024 is disposed of.

In Re: CAN 4 of 2024

Application being CAN 4 of 2024 is dismissed as not pressed.

In Re: W.P.S.T. 289 of 2010

1. It is apparent from the records that the petitioner's name was requisitioned by the Office of the Superintendent of the Krishnanagar District Correctional Home under Dum-Dum Correctional Home Circle for their engagement as "Extra Temporary Female Warders" for the Krishnanagar District Correctional Home under Dum-Dum Correctional Home Circle.
2. Pursuant thereafter their physical capability were examined and they were subjected to a viva voce leading to issuance of engagement order/(s) dated 19.01.2009. 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 basis 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 cancelled."

3. Such nature of the petitioner's engagement was brought to an end after 31.03.2009. The petitioner

thus approached the State Administrative Tribunal seeking directions that she be allotted duty and paid salary. She also raised an issue regarding others, who she claimed to be similarly situated, namely, the private respondent nos. 7 to 10 before the Tribunal.

4. The case of the applicant was that these respondents have been regularized whereas the petitioner has been discriminated against and the authorities have been discriminated against and the authorities have stopped allotting duties to the petitioners.
5. 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 19.01.2009.
6. The engagement was clearly temporary kind of an arrangement which was done for more than 15 days in every month. Such being the nature of the engagement, the petitioner has no right whatsoever to claim continuity. In view of the nature of the engagement, she was allotted work till 31st March, 2009 and remuneration was paid accordingly. They are not in a position to make any further demands or to content that before disengaging her there was any obligation on the part of the authorities to

resort to the procedure for termination contained in the service rules.

7. 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 petitioner. 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 petitioner to claim parity with the private respondent nos. 7 to 10.
8. On consideration of the rival submissions, we find force in the submission advanced on behalf of the State.
9. The nature of petitioner's engagement is apparent from the engagement order, extracted above. All the petitioners were engaged on same terms as extract temporary orders to be given work for not more than 15 days in a month. The nature of temporary engagement does not entail of the same service rules which are applicable to the permanent employees in the matter of their dismissal/termination.
10. They petitioner is not in a position to claim any right to continue beyond 31.03.2009. It is not in dispute that she has not been assigned duty or work has been taken from her after 31.03.2009.

11. Such being the circumstances, we find no force in the submission of the petitioner's counsel that the authorities should continue to take work from the petitioner and grant arrears of salary. 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 thereon which clearly establishes that the respondent nos. 7 to 10 were not similarly situated as the petitioner.
12. Such assertions made in the affidavit-in-opposition have not been denied or disputed. The petitioner has only made bold, vague and general denials in respect of the said assertions. Therefore, there is no scope for alleging discrimination of also in the present case.
13. In view of the above consideration, we find no infirmity in the decision of the West Bengal Administrative Tribunal passed in the Original Application filed by the petitioner bearing O.A. No. 935 of 2009 on 16.09.2009.
14. Without interfering the order passed by the Tribunal, the writ petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)