

Form No. J(2)
Item No. DL / 1-6
ARPAN – A.R.(CT)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(Appellate Side)

W.P.A. NO 13283 OF 2025

BISWAJIT ROY

VS.

THE STATE OF WEST BENGAL & OTHERS

With

W.P.A. NO 13285 OF 2025

SUDESHNA HAZRA

VS.

THE STATE OF WEST BENGAL & OTHERS

With

W.P.A. NO 13287 OF 2025

AMBIKA JASH

VS.

THE STATE OF WEST BENGAL & OTHERS

With

W.P.A. NO 13290 OF 2025

BINOD KUMAR SHAW

VS.

THE STATE OF WEST BENGAL & OTHERS

With

W.P.A. NO 13296 OF 2025

RINTU CHATTOPADHYAY

VS.
THE STATE OF WEST BENGAL & OTHERS

With

W.P.A. NO 13300 OF 2025

SOUMITRA DAS

VS.
THE STATE OF WEST BENGAL & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioners	: Mr. Sounak Bhattacharya, Adv. Mr. Chandra Nath Sarkar, Adv. Mr. Sounak Mondal, Adv. Mr. Abhirup Halder, Adv. Mr. Anirban Saha Ray, Adv.
For the State (In WPA 13283/2025)	: Mr. Supriyo Chattopadhyay, AGP. Mr. Suman Dey, Adv. Ms. Subhasri Chatterjee, Adv.
For the State (In WPA 13285/2025)	: Mr. Biswabrata Basu Mallick, AGP Ms. Parna Roy Choudhury, Adv.
For the State (In WPA 13296/2025)	: Mr. Supriyo Chattopadhyay, AGP. Mr. Sabyasachi Mondal, Adv.
For the State (In WPA 13300/2025)	: Mr. Supriyo Chattopadhyay, AGP. Ms. Sayantani Bhattacharyay, Adv.
Hearing Concluded On	: 25.08.2025
Judgment On	: 25.08.2025

SAUGATA BHATTACHARYYA, J.:

1. Matters are heard in presence of the learned advocates representing the petitioners and State respondents. Since common issue is involved in all the writ petitions, these writ petitions are heard together as analogous matters.
2. In the writ petitions order dated 21st February, 2025 of the Principal Secretary, Government of West Bengal, School Education Department is under challenge whereby prayer of the writ petitioners for granting identical service benefits which were extended in terms of the order of the Hon'ble Supreme Court dated 16th July, 2024 passed in ***Special Leave to Appeal (Civil) No.14355 of 2021 (The State of West Bengal & Ors. vs. Anirban Ghosh & Ors.)*** was spurned.
3. Writ petitioners being the contractual part time teachers working in higher secondary section of different schools, have come up with separate writ petitions claiming service benefits as were extended to similarly circumstanced other contractual part time teachers working in higher secondary section in Government aided higher secondary schools in terms of the judgment of the Hon'ble Division Bench dated 3rd September, 2020 passed on two *intra-Court* appeals, first one being ***MAT 1221 of 2019 (State of West Bengal & Ors. vs. Anirban Ghosh & Ors.)*** and the aforesaid order of the Hon'ble Supreme Court dated 16th July, 2024.
4. It is submitted on behalf of the petitioners that all the petitioners approached a Co-ordinate Bench by instituting separate writ petitions and those were disposed of by a common order dated 13th December, 2024

thereby directing the Principal Secretary, Department of School Education being respondent no.1 herein to decide the claim of the petitioners. Subsequently, respondent no.1 by passing impugned order dated 21st February, 2025 decided that the benefits should be confined to the private respondents and/or impleaders and/or intervenors as were referred to in the order of the Hon'ble Supreme Court dated 16th July, 2024. Since petitioners were neither private respondents nor intervenors and/or impleaders, they were found to be not eligible to receive identical service benefits being contractual part time teachers of higher secondary section by the respondent no.1.

5. In support of the case made out in the writ petitions learned advocate representing the petitioners submits petitioners are similarly circumstanced like private respondents and intervenors/impleaders before the Hon'ble Supreme Court and they are entitled to receive similar service benefits of basic pay in the scale of pay of regular teachers working in higher secondary section in Government aided higher secondary schools for the period from 28th July, 2010 till 24th December, 2013 when previous Government order dated 28th July, 2010 was withdrawn.
6. In this regard reliance is placed on the following judgments: (i) **(1987) 4 SCC 431 (K.I. Shephard & Ors. vs. Union of India & Ors.)** (ii) **(2024) SCC OnLine SC 3664 (Lt. Col. Suprita Chandel vs. Union of India & Ors.)** (iii) **(2025) SCC OnLine Cal 4889 (Pampa Dutta Dhar & Ors. vs. Union of India & Ors.)**.

7. State respondents are represented by Mr. Supriyo Chattopadhyay, learned Additional Government Pleader, Mr. Biswabrata Basu Mallick, learned Additional Government Pleader and Mr. Suman Dey, learned advocate who have jointly opposed the prayer couched in these writ petitions and submissions are made to defend the decision of the respondent no.1 as contained in order dated 21st February, 2025. It is submitted that petitioners are fence-sitters and at the material point of time they did not approach the Court. Therefore, on extension of monetary benefits relating to service of other candidates being contractual part time teachers of higher secondary section of Government aided higher secondary schools in terms of order passed by the Hon'ble Supreme Court on 16th July, 2024, they cannot claim similar benefits.
8. It is also submitted on behalf of the State respondents that the Hon'ble Supreme Court in the order dated 16th July, 2024 limited the issue by extending benefit only to private respondents including intervenors/impleaders as referred to in the said order and based on which respondent no.1 refused to grant relief to the petitioners by passing the impugned order dated 21st February, 2025.
9. On factual analysis of the writ petitions based on submissions made on behalf of the parties it appears that all the petitioners are presently working as contractual part time teachers in higher secondary section of different government aided higher secondary schools and they are similarly circumstanced like the respondents in the appeals being *MAT 1221 of 2019* and *MAT 1367 of 2019*, which were decided by the Hon'ble

Division Bench *vide* judgment dated 3rd September, 2020. Subsequently, the judgment dated 3rd September, 2020 was carried in appeal before the Hon'ble Supreme Court and while disposing of the *Special Leave to Appeal (Civil) No.14355 of 2021* along with connected Special Leave to Appeal and Transfer Petitions the Hon'ble Supreme Court *vide* order dated 16th July, 2024 directed that the relief granted in the judgment dated 3rd September, 2020 shall be extended to all similarly placed private respondents including intervenors/impleaders, who moved the applications in connection with the matters pending before the Hon'ble Supreme Court.

10. Question arises for consideration whether teachers who are similarly circumstanced like the parties before the Hon'ble Supreme Court in connection with *Special Leave to Appeal (Civil) No.14355 of 2021* need to be granted similar relief or not.
11. Writ petitioners are working as part time contractual teachers in higher secondary section of Government aided different higher secondary schools like the parties before the Hon'ble Supreme Court and if benefits in terms of the order of the Hon'ble Supreme Court dated 16th July, 2024 read with judgment of the Hon'ble Division Bench dated 3rd September, 2020 are not extended to the petitioners, they will be deprived of those service benefits resulting in creation of separate class within a class of those teachers.
12. Reliance is placed on ***K.I. Shephard*** (*supra*) where in paragraph 19 it was succinctly observed that there is no justification to penalize the excluded employees who did not come to Court for not having litigated; those

employees were entitled to get same benefits. In **Lt. Col. Suprita Chandel** (*supra*) law was enunciated that where a citizen aggrieved by an action of the Government department approached the Court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to come to Court. Placing reliance on **K.I. Shephard** (*supra*) and **Lt. Col. Suprita Chandel** (*supra*) this Court has also held in **Pampa Dutta Dhar** (*supra*) that similarly circumstanced candidates like the appellants before the Hon'ble Supreme Court ought not to be discriminated against.

13. In view of aforesaid considerations impugned order of the respondent no.1 dated 21st February, 2025 is set aside and State respondents are directed to grant similar service benefits to the writ petitioners in terms of the judgment of the Hon'ble Division Bench dated 3rd September, 2020 and the order passed by the Hon'ble Supreme Court dated 16th July, 2024 on *Special Leave to Appeal (Civil) No.14355 of 2021* within a period of four (4) weeks from the date of communication of this order.
14. With the above directions writ petition stands disposed of.
15. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)