

25.11.2025
(D/L-05)
Ct. No.4
(B.K.N.)

W.P.S.T. 157 of 2024
Yakub Ansari & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Ujjal Ray ,
Mr. Ivan Roy,
Mr. Debangshu Bandhu,
Mr. Kaustabh Banerjee,
Mr. Nirupam Dutta,
Mr. Atreya Chakraborty

...for the Petitioners

Ms. Sonal Sinha,
Mr. Amrit Lal Chatterjee,
Mr. Sandipan Das

...for the State Respondents

1. Heard the learned advocate for the writ petitioners and the learned advocate for the State.
2. The writ petitioners have approached the West Bengal Administrative Tribunal (SAT) for issuance of a direction for absorption of the petitioners. The Tribunal has rejected the Original Application No. 956 of 2019 by its order dated 25.04.2024. The order of the Tribunal is the subject matter of the present writ petition.
3. The learned advocate for the writ petitioners submits that the issue regarding regularization of DDT Spray Workers was considered in W.P.S.T. 1282 OF 2001 wherein the workers were found to be eligible for absorption. In terms of the said decision the authorities namely, the Director of Health Services, West Bengal issued an order on 19.11.2008

directing the Chief Medical Officers of Health in the concerned Districts to absorb the persons who were enlisted in the list contained in the order dated 19.11.2008 for their absorption. He thereafter relies upon another similar communication dated 22.06.2015 issued by the CMOH to the Joint Director of Personnel in the Government of West Bengal wherein a list of persons eligible for absorption was forwarded which included the names of all the present petitioners. Despite such action having been taken by the authorities, the applicants/writ petitioners were not extended the benefit of absorption. It is under such circumstances that they have approached the Tribunal.

4. It is submitted by the learned advocate for the writ petitioner that the reasoning assigning by the Tribunal that because the applicant/writ petitioners are Seasonal Spray Workers, they are not entitled to any absorption is unsustainable.
5. He submits that pursuant to the orders passed in W.P.S.T. No. 1282 of 2001 as affirmed by the Apex Court, the authorities themselves had proceeded to take steps for identifying the Seasonal Spray Workers eligible for absorption wherein the present applicants' names were figuring. The conclusion of the Tribunal, therefore, that Seasonal Spray Workers are not eligible for absorption is unsustainable.

6. The learned State counsel on the other hand submits that the communication dated 22.06.2015 being relied upon in the present writ proceeding is insufficient to assert or make out a claim for absorption of the writ petitioners/applicants. The communication is only containing of list of such persons who are working in the Department on casual, contractual or daily rate. The communication does not in any way certify that these persons have been performing any perennial nature of work or that they have been continuously working for the last ten years without any order of a Court/forum or that their appointment or their initial engagement were against any sanctioned post after following a recruitment process based on eligibility. The particulars contained in the communication dated 22.06.2015 does not contain such details which are prerequisites to any claim for regularization.
7. He thereafter submits that the authorities have specifically stated in their opposition filed before this Court that the present applicants/petitioners were engaged about twice a year for DDT Spray Workers and for a maximum of 180 days in a year on “no work no pay basis”. In view of their nature of engagement there is no scope to raise a claim for absorption.

8. We have considered the rival submissions. In so far as the claim of the applicants with reference to the order dated 19.11.2008 issued by the Director, Health Services, we find that the name of petitioner no. 1 only was figuring in that order. The remaining writ petitioners' names were not figuring in the list of Spray Workers found eligible for absorption against Group D post contained in the order dated 19.11.2008. The order directed the CMOHs to take steps for absorption of the persons whose names figured in the list, after observing necessary formalities and maintaining 100 point roaster. It also mandates regularization, absorption as per seniority in the list. The petitioner no. 1's name is at serial no. 137. That list was issued in the year 2008. A claim based on that list is sought to be agitated in the Original Application filed in the year 2019.
9. Apart from the claim being stale we find that there is no material in the Original Application to show as to whether any steps were taken by petitioner no. 1 to assert his claim by virtue of his name appearing in the list dated 19.11.2008. There is no material to show that the petitioner was entitled to absorption in terms of the 100 point roaster prepared under the order dated 19.11.2008 or that by virtue of seniority in the list dated 19.11.2008, petitioner was entitled

to absorption in terms of the order dated 19.11.2008.

10. Apart from the fact that there is no material in this regard, we also find that a claim with reference to the order of the Director, Health Services, dated 19.11.2008 for petitioner no. 1, would, to say the least be a stale claim in an Original Application filed in the year 2019.
11. Insofar as the other writ petitioners are concerned it is not their case that their names appeared in 2008 order. The name of seven of the remaining writ petitioners 2 to 8 appeared in a communication dated 22.06.2015 whereby the department forwarded a list of persons working in the department for ten years.
12. Insofar as petitioner no. 8 is concerned this list clearly states that he has not worked for ten years. The others have been stated to be working for ten years but not discharging a perennial nature of work; nor their engagement was continuous throughout the ten years. There is also no material to show that their initial engagement was complying with the other well established requirements for the purposes of regularization, being engagement against a sanctioned post by any legally recognised process.

13. In fact the State in its opposition has stated that they were not employed in a perennial nature of work and that their work was requisitioned for DDT Spray on “no work no pay basis” as per requirement. The number of days has also specifically been asserted to be a maximum of 180 days per year. There is no reply filed to the opposition, wherein such assertions have been made. The petitioners clearly have not been able to make out a case for absorption/regularization.
14. The order of the Tribunal dated 25.04.2024 passed in O.A. No. 956 of 2019, therefore, requires no interference.
15. The writ petition is dismissed.
16. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)