

OD-3

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/173/2025

NISITH BISWAS
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : 10th June, 2025.

APPEARANCE:
Mr. Debdutta Basu, Adv.
..for the petitioner.

Ms. Deblina Chatteraj, Adv.
Ms. Poulami Chattopadhyay, Adv.
For respondent nos. 2 to 5.

The Court:- Mr. Debdutta Basu, learned Counsel appears for the petitioner. Ms. Deblina Chatteraj, learned Counsel appears for the respondent nos. 2 to 5.

None appears for the State.

Affidavit of service is already on record. The records show despite notice State choose not to be represented.

The petitioner was appointed as a contractual employee of the respondent no. 2 by virtue of an appointment letter dated **February 28, 2001** at **page 14** to the writ petition.

The petitioner claims regularization of his employment. Relying upon a document dated **April 12, 2024** at **page 23** to the writ petition, learned

Counsel for the petitioner submits that even the candidates, who were appointed as contractual employees later than the petitioner, have been regularized way back in 2002 and 2007. Thus, the petitioner claims regularization of his employment being a candidate who is similarly placed with those candidates who have already been regularized.

Ms. Debalina Chattoraj, learned Counsel appearing for the respondent nos. 2 to 5 submits that had this been the only claim of the petitioner claiming regularization of his employment, the petitioner ought to have applied before the employer or appropriate authority claiming regularization at the relevant point of time, for which he ought not to have waited till 2024 until the writ petition has been filed.

The petitioner has received all the benefits and still has been working as a contractual employee. The petitioner has also received the enhanced salaries in terms of the Government Memorandum dated **February 25, 2016** at **page 17** to the writ petition and the tenure of the petitioner under the said Memorandum will be till he reaches 60 years of age.

After considering the rival contentions of the parties and upon perusal of the materials on record, this Court thinks it fit that upon scrutinizing all the relevant materials and Government Memorandum, a reasoned decision is required to be taken by the appropriate authority considering the claim of the petitioner in accordance with law.

In view of the above, the petitioner shall serve a copy of the writ petition with all its annexures along with copy of today's order upon the **Principle Secretary, Transport Department, State of West Bengal.**

The Principal Secretary then upon issuing a prior hearing notice of at least seven days to the petitioner and the respondent no. 5 and after granting them an opportunity of hearing, shall decide the claim of the petitioner in the light of the case made out in the writ petition by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the said Principal Secretary positively within a period of **six weeks** from the date of communication of this order. The reasoned order then shall be communicated to the petitioner and the respondent nos. 4 and 5 positively within a further period of **one week** from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties. The parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records, documents and orders of Court, if any, they want to rely upon before the Principal Secretary but the same shall not travel beyond the scope of the writ petition.

In the event the reasoned order goes in favour of the petitioner, then the appropriate authority shall give an immediate effect thereto with all consequential benefits to which the petitioner shall be entitled to in law positively within a period of **five weeks** from the date of the said reasoned order to be passed.

It is made clear that this order shall not create any right or equity in favour of the petitioner if the petitioner does not succeed to his claim before the Principal Secretary strictly in accordance with law.

The petitioner shall also be at liberty to file written notes on argument before the Principal Secretary simultaneously on the day when the hearing shall be concluded before the Principal Secretary.

Since the affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observation and directions this writ petition **WPO/173/2025** stands disposed of, without any order as to costs.

(ANIRUDDHA ROY, J.)

dg/