

25.02.2026
Item No.46
Ct. No.14
gd

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA/9261/2023
GOBINDA GURIA
VS

STATE OF WEST BENGAL AND ORS.
IA NO: CAN/3/2023, CAN/6/2025
(Applications already disposed of)

Mr. Avijit Sarkar

... for the Petitioner

Ms. Mousumi Haldar Choudhury
Ms. Mousumi Banerjee

... for the State

Mr. Arjun Ray Mukherjee
Mr. S. Mukherjee

...for the Respondent No.12

1. By the present writ petition, the petitioner seeks direction upon respondent authorities for renewal of his service as Para Teacher at Chandpur Upendra Nath High School (H.S.), Village-Chandpur, Post Office-Balichaturi, Police Station-Shyampur, District-Howrah and arrears of wages.
2. The fact of the case is as follows:
 - i. The writ petitioner participated in the selection process for appointment to the post of Additional Para-Teacher and upon being successful in the selection process he was appointed as an Additional Para Teacher at Chandpur Upendra Nath High School (H.S.) (*in short, 'the School'*) in June, 2007.
 - ii. While the petitioner was serving as a Para Teacher in the said School, a complaint was lodged on 4th July, 2007 against him by one Madhumita Mondal

alleging that the petitioner had behaved in an indecent manner with her. On the basis of such complaint, the Managing Committee of the School discharged the petitioner from the post of Additional Para Teacher by adopting a resolution on that date itself i.e. 4th July, 2007.

- iii. The said resolution of the Managing Committee of the School was challenged by the petitioner by writ petition being WP 4562(W) of 2009. The said writ petition was disposed of by order dated 25th April, 2014 holding that the impugned resolution was violative of the principles of natural justice inasmuch as the petitioner had not been granted any opportunity of hearing prior to such resolution being adopted and set aside the impugned resolution. The operative portion of the said order reads as follows:-

“Mere expiry of the panel during pendency of the legal proceeding cannot defeat the claim of a candidature for appointment to the post. Such proposition would be explicit from the judgment delivered in the case of Nirupama (Roy) Barman vs.- State of West Bengal and Others, reported in (2013) 2 CLJ page 462.

Accordingly, I direct the petitioner to make a representation for engagement to the said vacant post of additional para teacher in the said School.

The said representation should be made inclusive of all relevant documents to the respondent No. 3 within a period of three weeks from date.

Upon receipt of the said representation, the respondent no. 3 shall consider the same upon granting an opportunity of hearing to the writ petitioner and the said school authorities and shall pass a reasoned order in accordance with law.

The entire exercise should be concluded within a period of twelve weeks from date.

Needless to observe, in the event that the petitioner's claim deserves acceptance, necessary follow up steps

should be taken by all the respondents for engagement of the petitioner to the post of additional para teacher in the concerned school."

- iv. Pursuant to such order, the petitioner made a representation on 14th May, 2014 to the District Project Officer, Sarva Shiksha Mission, Howrah.
- v. On 26 July, 2007, the School Management Committee adopted another resolution to the effect that since the petitioner had failed to produce the residential certificate as a resident of VEC-Balichaturi-X before the School Authority as asked for, his engagement to the post of para Teacher in the said School was treated as cancelled.
- vi. The District Project Officer held a hearing on 25th July, 2014 and passed an order on the basis of office records and all available documents holding that the petitioner was a resident of erstwhile VEC-Balichaturi-X which has become VEC-7 and hence there was no valid ground for cancellation of candidature of the writ petitioner.
- vii. As regards reinstatement, the District Project Officer held as follows:

"As regards to the appeal of Sri Gobinda Guria, at this point of time there is no such provision to reinstate him to his former post of para-teacher in Chandpur Upendranath High School because of the order of the State Project Director, PBSSM vide Memo No.278(20)Ped/PBSSM/2010 dtd. 27.03.2010,'if any para teacher engaged previously in any schools, leaves the job or has already left the job or if his position falls vacant due to any other person, the vacant position also shall not be filled by engagement of Para- Teachers and the position shall lie sine die till if it is filled up through regularly recruited teacher(s).'

With the above observation, the matter is disposed of."

viii. The said order dated 25th July, 2014 passed by District Project Officer was challenged in writ petition being WP 30053(W) of 2014.

ix. The said writ petition was disposed of on 9th February, 2015 with the following observation:

"Having heard the learned advocates for the parties, I am of the considered view that the DPO has failed to interpret the terms of the order dated 27th March, 2010 in the proper perspective. The work 'position falls vacant due to any other reason' has to be read ejusdem generis 'leaves the job' or 'has already left the job'; the embargo imposed by the Government Order dated 27th March, 2010 would not apply in a case where a vacancy occurs because of the para teacher being thrown out of service without justifiable ground. Since the DPO has given a positive finding to the effect that the petitioner was illegally deprived of the post which was held by him, I hold that the order dated 27th March, 2010 could not have been applied to his detriment and prejudice.

The writ petition, accordingly, stands disposed of with a direction upon the DPO to reconsider the question of the petitioner's re-engagement as a para teacher in the light of the above observation.

Let the appropriate order be passed by the DPO as early as possible, but not later than three weeks from the date of receipt of a copy of this order."

x. Pursuant thereto, the District Project Officer, SSM, Howrah passed an order on 4th March, 2015 as follows:

"Gobinda Guria joined the post of para-teacher for a contractual basis of one year in Chandpur Upendra Nath High School on 18.06.2007. Being the 1st empanelled candidate he was discharged from the post of para-teacher by Managing Committee on 04.07.2007. Ishaque Ali Mollah being the 2nd empanelled candidate joined the post of para-teacher in the said school on 23.08.2008 and continued till 27.11.2013. After resignation of Ishaque Ali Mollah on 28.11.2013 a vacancy is created and for filling up this vacancy new recruitment process will have to be initiated since as per G.O. No. 7196-F(P), Kolkata, the 2nd July, 2010 issued by the Finance Department

(Subject: Instruction regarding preparation, cancellation, appointment out of panels for filling up the non-PSC posts.), 'A panel should not remain valid for more than a year. The panel will automatically stand cancelled when all the notified vacant posts are filled up from the panel within the said one year validity period of the panel.'

Therefore, the previous panel prepared on 27.04.2007 for the post of para teacher of English in Chandpur Upendra Nath High School is no longer valid.

Also as per order of Secretary of the Govt. of West Bengal, School Education Department vide memo No. 376-SE(Pry) dated 09.06.2010, 'No new engagement of Para Teacher or any other category of employees can be made after issue of this order.'

Therefore, no new recruitment can be done against the said post.

As per memo No. 154/PD/PBSSM/2011 dated 27.07.2011, State Project Director, PBSSM has stated that 'the concept of para teachers was a purely temporary measure to combat the adverse PTR in the schools'. The State Project Director also stated that 'there has been sea change in both the law and government policy regarding engagement of any teaching personnel in the schools especially as the government policy is our functioning.'

Therefore, the representation of Sri Gobinda Guria being a candidate of the panel prepared on 27.04.2007 cannot be considered and hence his re- engagement is not possible keeping in view the existing Government Policy."

- xi. Challenging such order dated 4th March, 2015 the petitioner again filed a writ petition being WP 7641(W) of 2015 which was disposed of on 16th May, 2017 with the following direction:

"(18) In view of the aforesaid, the impugned order dated 4 March, 2015 is set aside. The respondent no. 3 is directed to re-engage/reinstate the writ petitioner in the post of Para-teacher(English) in the Chandpur Upendra Nath High School (H.S.) in terms of his appointment letter for the unexpired period of his tenure treating his discharge from service on 4 July, 2007 to be ineffective.

(19) I do not express any opinion as to whether or not the petitioner will be entitled to get the benefit of the memorandum dated 23 April, 2010 issued by the School Education Department, Government of West Bengal, (annexure 13 to the writ petition) and that is also not the prayer of the writ petitioner."

3. As the aforesaid order was not complied, the petitioner filed a contempt application being CPAN 70 of 2018. Pursuant thereto, on 28th June, 2022, the petitioner was re-engaged.
4. The petitioner filed the present writ petition claiming for his renewal on the basis of the Notification of the Government of West Bengal, School Education Department, Government of West Bengal under Memo

No.273-SE(P)/PBRPSUS/ADMN/9/04-05 dated 23rd April, 2010.

5. During the pendency of the writ petition a letter of termination was issued to the petitioner on 15th May, 2023 by the Headmaster of the school.
6. Mr. Avijit Sarkar, learned advocate appearing for the petitioner submits that the discharge of the writ petitioner by the school concerned has been held to be wrongful and unlawful. By dint of order passed in the earlier writ petition being WP 7641(W) of 2015 the petitioner has been reinstated. The Notification of the Government of West Bengal dated 23rd April, 2010 clearly records that all existing teachers will be re-engaged by the Government officials in the manner to be notified in due course for the period of one year subject to renewal till they attain 60 years of age. As the petitioner on the date of the said Notification was an existing teacher, he is required to be re-engaged in terms of the said Notification. Relying on the decision of the Hon'ble Division Bench passed in ***State Projects Director, Paschim Banga Sarva Shiksha Mission versus Krishnendu Biswas & Ors. (FMA 728 of 2023 with CAN 2 of 2025)***, he submits that the contractual teachers who had been working in regular schools were duly protected by Notification dated 23rd April, 2010. He seeks that the benefit of the said notification be extended to the petitioner.

7. On the contrary, Mr. Arjun Roy Mukherjee, learned advocate appearing for the respondent no.12, State Project Director (SSM), West Bengal submits that the petitioner was engaged in the year 2007. There are no such documents of renewal of the petitioner till the Notification dated 23rd April, 2010 came into force with effect from 1st June, 2010. Thus, the petitioner cannot be treated as an existing teacher on the relevant date of Notification. Moreover, on the date of filing of the earlier writ petition the Notification dated 23rd April, 2010 was prevalent. However, the petitioner chose not to seek for any benefit, under the said Notification, meaning thereby that the petitioner acquiesced his right to get the benefit under the said Notification. Further, the decision in *Krishnendu Biswas (supra)* is factually distinguishable since in the said case the Shiksha Mitras sought for regularization of their services. He seeks for dismissal of the writ petition.
8. Having heard the learned advocates for the respective parties, the only issue which falls for consideration is whether the benefit of Notification No.273-SE(P)/PBRPSUS/ADMN/9/04-05 dated 23rd April, 2010 can be extended to the petitioner or not.
9. Admittedly, the petitioner joined in the said school in the year 2007. The petitioner was discharged from the school on 4th July, 2007 on a complaint of one Madhumita Mondal. The material on record manifest that the discharge of the petitioner was set aside by

the Court vide order dated 25th April, 2014 and was held to be illegal and wrongful. The petitioner was re-engaged by the order of this court holding that the discharge of the petitioner from service on 4th July, 2007 to be ineffective. Although the order of the Court in WP 7641 (W) of 2015 records that the petitioner should be allowed to join only with respect of unexpired period of his tenure and it did not express any opinion with regard to the applicability of Notification dated 23rd April, 2010 as no prayer was made, yet it observed that the change of Government policy would not stand in the way of re-engagement of the petitioner and such re-engagement of the petitioner would not be a new appointment.

10. Further the Court in the earlier writ petition vide order dated 25th April, 20214 has categorically held that mere expiry of the panel, during pendency of legal proceedings, cannot defeat the claim of a candidate for appointment to the post and reliance was placed on ***Nirupama (Roy) Barman versus State of West Bengal and Others*** reported in ***(2013) 2 CLJ 462***.
11. Bearing in mind the aforesaid observation of the Coordinate Bench of this Court, the petitioner ought to be treated as an existing teacher under Notification dated 23rd April, 2010. Accordingly, this Court is of the opinion that the petitioner is entitled to the benefit under the said Notification.

12. The order of termination dated 15th May, 2023 issued by Headmaster of the school is hereby set aside.
13. In view of the above, the respondent no.10, District Education Officer, Howrah, Paschim Banga Samagra Siksha Mission is directed to take appropriate steps for renewal of service of the petitioner in the light of Notification dated 23rd April, 2010, within a period of twelve weeks from the date of communication of this order.
14. As the petitioner could not demonstrate that he discharged his function as Para Teacher subsequent to the order of his discharge till his re-engagement in the year 2022, he is not entitled to any arrears of wages.
15. Learned advocate for the petitioner is directed to communicate this order to the respondent no.10, District Education Officer, Howrah, Paschim Banga Samagra Siksha Mission, for necessary compliance.
16. With the above directions, the writ petition being **WPA 9261 of 2023** stands disposed of.
17. Consequently, connected applications, if any, also stand disposed of.
18. Interim orders, if any, stand vacated.
19. There will be no order as to costs.
20. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)