

2nd February, 2026
(M/L No.17)
Ct. No.4
(SKB)

W.P.S.T.135 of 2025

Kashem Ali Piada
Versus
State of West Bengal and others

Mr. R. K. Bhattacharyya,
Mr. D. Roy Chowdhury,
Mr. P. K. Goswami
... for the petitioner.

Mr. Tapan Kumar Mukherjee, Id. AGP,
Ms. Ashmita Chakraborty
... for the State.

1. Heard the learned counsel for the petitioner and the learned AGP.
2. The writ petitioner was appointed as a contingent Group 'D' employee on a whole time basis. The appointment was done relying upon a policy regarding engagement of contingent employees, for performing the Group 'D' work as per contingency of service, contained in the State Government's Memorandum dated 28.07.1999. The same reads as follows:

“The undersigned is directed by order of the Governor to say that the Governor has been pleased to direct that in supersession of all previous orders, the pay of the Group-D employees paid out of contingencies shall be fixed as follow: w.e.f. 1st August, 1999 :-

<i>(a) If employed whole time and throughout the year</i>	<i>Pay in the time scale of Rs.2600-55-2985-60-3525-</i>
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	<i>65-4175/- plus allowances as admissible to whole time Govt. employees.</i>
<i>(b) If employed whole time but not throughout the year</i>	<i>Fixed pay not exceeding Rs.2600/- p.m. plus allowances admissible to whole time Govt. employees.</i>
<i>(c) If employed part-time and throughout the year</i>	
<i>(d) If employed part-time but not throughout the year</i>	<i>Fixed pay not exceeding Rs.700/- p.m. No other allowance will be admissible in addition.</i>

The Provision made in the West Bengal Services (Revision of Pay and Allowance) Rules, 1998 shall apply mutatis-mutandis only to the contingency staff mentioned in item (a) above.”

3. The writ petitioner was engaged in the light of enabling provisions contained in the said memorandum dated 28.07.1999, on 10.03.2007. In 2021, he approached the West Bengal Administrative Tribunal (in short ‘Tribunal’) seeking a relief in the following terms:

“a) An order be passed directing the respondent authorities to withdraw, cancel, rescind the impugned records (if any) in which the applicant was described as part-time employee under the said department, since in the reply against the application under Right to Information Act, 2005 so made by the applicant, the applicant was described as part-time employee.

b) An order be passed upon the respondent authorities directing the respondents to treat the applicant as whole-time regular employee under Consumer Affairs Department, Government of West Bengal and to

approve and/or absorb the applicant in a permanent post.

c) An order be passed directing the respondents to pay the salaries and allowances as admissible to a permanent Group-D staff under the Consumer Affairs Department, Government of West Bengal month by month as well as other service benefits as admissible to a permanent group 'D' staff under the said department.

d) Pass such order or further order or orders as to Your Lordships may seem fit and proper."

4. The Tribunal has rejected the Original Application bearing O.A. No.99 of 2023 by an order dated 23.07.2024. The same is put to challenge in the present writ proceedings.
5. the learned counsel for the writ petitioner submits that since the petitioner has continuously been working on a Group 'D' post throughout the year since 10.03.2000, he is entitled to regularization, stating reliance on recent decision of the Apex Court in the case of ***Dharam Singh and others Vs. State of Uttar Pradesh and another*** in ***Civil Appeal No(s). 8558 of 2018 (2025 INSC 998)***. Copy of the judgment has been handed over to this court.
6. He has drawn attention of this court towards the engagement order dated 10.03.2000, and order dated 12.10.2020, according extension to his engagement. He has also referred to a

pay slip issued for August, 2021 and an Office Order dated 09.11.2021, to submit that the petitioner has been working throughout the year since his engagement on 10.03.2000. He, therefore, claims that he is to be considered as a Group 'D' contingent employee coming within Clause (a) of the Memorandum dated 28.07.1999. The authorities have wrongly treated him to be falling within Clause (b) of the Memo dated 28.07.1999; and therefore, he has been denied consideration for being absorbed/regularized.

7. The learned AGP, on the other hand, would submit that the petitioner's engagement order dated 10.03.2000 in so many words states that his engagement as a contingent employee is "*on whole time basis but not throughout the year*". Therefore, the petitioner's claim that he would fall in Clause (a) of the Memo dated 28.07.1999 is unfounded and untenable.
8. The Office Order dated 12.10.2022 also does not support such assertion or claim of the petitioner. In so far as the pay slip is concerned, it is submitted that the pay slip for August, 2021 also does not support the

contention of the petitioner that he was ever an employee falling within Clause(a). Similar submission is advanced with reference to the Office Order dated 09.11.2021, relied upon by the petitioner.

9. Drawing attention of the court towards the Officer Order, the learned AGP pointed out that reading of the same reveals that the number of days of attendance was limited in a week and, there was no continuous employment throughout the year.
10. Upon going through the documents relied upon by the petitioner, we find that none of these documents support the petitioner's contention that he was being given work throughout the year. A perusal of the various documents including the memorandum dated 28.07.1999, the petitioner's engagement order dated 10.03.2000, the other documents relied upon by the petitioner being the order dated 12.10.2020 issued by the Deputy Secretary, Government of West Bengal, the pay slip for August, 2021; and an Office Order dated 09.11.2021, the inescapable conclusion is that the nature of petitioner's engagement falls within Clause (b) of the memorandum dated 28.07.1999. Though he

was employed whole time but he was not given work throughout the year, which fact is clear and evident from the documents relied upon by the petitioner. The claim of the petitioner in the O.A. for being treated as an employee falling within Clause (a) of the above quoted memorandum dated 28.07.1999 is not sustained by any of the documents relied upon by the writ petitioner.

11. We, therefore, find that the petitioner's claim in the O.A. is factually not sustainable. We, therefore, find petitioner's reliance on the decision of the Apex Court in the case of ***Dharam Singh (supra)*** is misplaced having regard to the nature of his employment as a contingent Group 'D' employee having assigned intermittent duties as per requirement.

12. In the case of ***Dharam Singh (supra)*** the Apex Court took note of the relevant facts, being engagement of the appellants therein between 1989-1992. The fact that they were discharging ministerial and support functions during regular office hours. The Apex Court also took note of the fact that the Commission where they were engaged as ad-hoc employees resolved to create posts and

solicited sanction of such post from the State Government, which was reiterated from time to time. When the sanctioned post was not forthcoming the appellants therein had filed writ petition, wherein the High Court directed the Commission to send recommendation afresh and directed state government to take a fresh decision. The direction of the High Court dated 24.02.2002 took note of the long engagement of the appellant therein and directed the Commission to pay the appellants minimum of the applicable pay scale.

13. The State thereafter declined sanction citing a ban on creation of new posts and financial grounds. It is taking note such facts that the Apex Court in the case of ***Dharam Singh*** (*supra*) directed regularization of the appellants therein and for grant of other benefits.

14. In the present case, the facts are at stark variance, as noted above. The engagement of the present writ petitioners was under a policy for meeting the contingency of work, arising intermediately, for which, the writ petitioners were being paid a monthly sum from the contingency fund. There is nothing

on record to show that the applicant/writ petitioners performed continuous duty throughout the year. In the present case we also find that there is no opinion of any authority, such as the commission in the case of ***Dharam Singh*** (*supra*), that creation of sanctioned posts was required for discharging the intermitent duties discharged by the writ petitioners herein. We find the facts arising for consideration in the present case to be distinguishable from the facts arising for consideration in the case of ***Dharam Singh*** (*supra*).

15. The petitioner's case, therefore, does not derive any sustenance from decision of the Apex Court in the case of ***Dharam Singh*** (*supra*). We find no infirmity in the decision of the Tribunal.
16. Accordingly, the writ petition is dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)