

**IN THE HIGH COURT AT CALCUTTA**  
**Civil Appellate Jurisdiction**  
**APPELLATE SIDE**

Present:

**The Hon'ble Justice Tapabrata Chakraborty**  
**&**  
**The Hon'ble Justice Partha Sarathi Chatterjee**

**MAT 2039 of 2025**  
**+**  
**IA No. CAN 1 of 2025**

**Sanjoy Guchhait & Ors.**  
**-Versus-**  
**The State of West Bengal & Ors.**

*For the Appellants* : *Mr. Arabinda Chatterjee, Sr. Adv.,  
Ms. Kakali Dutta,  
Ms. Priti Dutta.*

*For the State Respondents* : *Mr. Supriyo Chattopadhyay, AGP,  
Mr. Pinaki Bhattacharyya.*

*Hearing is concluded on* : *27<sup>th</sup> March, 2026.*

**Judgment On** : **31<sup>st</sup> March, 2026.**

**Tapabrata Chakraborty, J.**

1. The present appeal has been preferred by three appellants, who were the writ petitioners along with three others in the writ petition being WPA 4281 of 2016 which was preferred primarily praying for issuance of necessary direction upon the respondents to grant approval of appointment

to the writ petitioners in Bar Khandagram Ganesh High School (HS) (hereinafter referred to as the said school) and to cancel the orders, directions given by the respondents denying the approval of appointment of the writ petitioners. The said writ petition was affirmed on 11.02.2016 and was dismissed by the judgment dated 28.10.2025 which has been impugned in the present appeal.

2. Claiming to be the organizing teaching staff of the said school, the appellants initially preferred a writ petition being WP 43 (W) of 1999 which was disposed of by an order dated 09.02.2000 directing the respondent no.3 herein to treat the writ petition as a representation and to dispose of the same in accordance with law. Pursuant thereto, the said respondent no.3 passed an order on 26.05.2000 rejecting the appellants' claim upon arriving at a finding that *'the writ petitioners can not be considered as organizing Teaching & Non-Teaching staff of the school in the eye of law, and in term of G.O. No. 117-SE (S) dt. 24.02.93'*. Challenging the said order, the appellants again preferred a writ petition being WP 8288 (W) of 2000 which was disposed of by an order dated 13.05.2002 quashing the order of the respondent no.3 dated 26.05.2000 and directing the Principal Secretary of the School Education Department (hereinafter referred to as the Principal Secretary) and to take a decision. Pursuant to the such direction the Principal Secretary passed an order dated 15.09.2003 rejecting the appellants' claim. Subsequent thereto, the respondent no. 2 *vide* memo dated 06.03.2012 forwarded an inquiry report responding to a mass petition of unapproved staff of the said school.

3. Mr. Chatterjee, learned senior advocate appearing for the appellants submits that the learned single Judge erroneously rejected the writ petition on a technical plea that the appellants had not challenged the order passed by the Principal Secretary on 15.09.2003 failing to appreciate that the appellants did make a prayer in the writ petition for cancellation of the orders, directions given by the respondents denying approval of appointment of the appellants.

4. He argues that the initial order passed by the respondent no.3 on 26.05.2000 was quashed by the order dated 13.05.2002 passed in the earlier writ petition being WP 8288 (W) of 2000 wherein the Hon'ble Court considering a circular dated 24.02.1995 pertaining to approval of appointment of organizing staff observed *inter alia* that '*there is a scope for consideration of this matter by the State Government itself which can change the norms under special facts and circumstances of the case*' and accordingly relegated the matter to the Principal Secretary to '*adjudicate the question of absorption after taking into account all the facts, namely, their past services and their sacrifices to lead the school to have approved classes 9 and 10*'. In the light of such observations, the Principal Secretary could not have rejected the appellants' claim since in the inquiry report dated 10.01.2012 it was observed that the organising staff are working in the said school till the date of the inquiry. In view of the findings in the inquiry report dated 10.01.2012 coupled with the observations made by the Hon'ble Court in the order dated 13.05.2002 it was incumbent upon the Principal Secretary to

revisit his earlier order dated 26.05.2000 moreso when, the order dated 13.05.2002 was not assailed by the respondents.

5. Relying on the principles laid down in the judgments delivered by the Hon'ble Supreme Court in the cases of *Jaggo vs. Union of India & Ors.*, reported in *AIR 2025 SC 296* and *Dharam Singh & Ors. vs. State of UP & Ors.*, reported in *2025 INSC 998*, Mr. Chatterjee contends that long, continuous and dedicated service rendered by an employee in respect of duties which are perennial in nature and essential to the functioning of an establishment or institution cannot be lightly disregarded merely by labelling the initial appointment as unapproved, ad hoc, contractual or part-time. Continuation of such service over a considerable period of time transforms what may initially have been a temporary or ad hoc arrangement into a situation warranting fair consideration for regularization. The procedural formalities cannot be used to deny regularization of the service of an employee.

6. Mr. Bhattacharyya, learned advocate appearing for the State respondents denies and disputes the contention of Mr. Chatterjee and submits that there was no contemporaneous challenge to the order of the Principal Secretary dated 15.09.2003 and the writ petition was filed about four years after an inquiry report was filed on 10.01.2012 responding to a mass petition of unapproved staff of the said school. In the said factual scenario, the issue as regards regularization cannot be reopened moreso when the appellant nos. 1, 2 and 3 have attained the age of about 59, 67, and 64 years respectively as on date.

7. According to Mr. Bhattacharyya, even if it is accepted that the appellants worked in the said school from the year 1993 till the date of upgradation of the said school as a 10 Class high school with effect from 01.05.1998, such service as rendered was not in any sanctioned post and the appellants' appointment was also not in consonance with the staff pattern. The Managing Committee of the said school did not possess the authority to appoint any teaching staff without first obtaining prior permission from the District Inspector of Schools and without following the prescribed selection procedure. Such appointment cannot be directed either to be approved or to be regularized.

8. In reply Mr. Chatterjee contends that in paragraph 16 of the affidavit-in-opposition the respondents could not deny the fact that the appellants had served continuously from the year 1993 and the respondent no.3 upon issuing a corrigendum dated 15.03.2002 also admitted their continuous service from the year 1993. In the said conspectus it would be iniquitous to deny the benefits of such service rendered by the appellants.

9. We have heard the learned advocates appearing for the parties at length and we have given our anxious consideration to the facts and circumstances of the case.

10. It is a well settled position of law that the relief under Article 226 of the Constitution of India is discretionary. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time. Admittedly the appellants did not challenge the order

passed by the Principal Secretary on 15.09.2003 contemporaneously and approached the Court about thirteen years thereafter placing reliance upon an enquiry report dated 10.01.2012 and that too even four years after such enquiry. There is no explanation as regards such delay.

11. A perusal of the order passed on 13.05.2002 in the earlier writ petition being WP 8288 (W) of 2000 would reveal that the Court arrived at a finding that no statutory legal right of the appellants had been infringed as would allow the appellants' status for elevation from unapproved staff to a permanent approved staff of the school in question. However, as the circular dated 24.02.1995 did not impose any absolute statutory embargo to accord the approval of the service of the appellants, the matter in the special facts and circumstances was relegated to the Principal Secretary for consideration since he is the appropriate authority to change the norms under certain conditions. Even if it is assumed that the appellants have worked since the year 1993 and till upgradation of the said school in the year 1998, they could not have claimed regularization since in the midst thereof, the State Government took a policy decision and promulgated the West Bengal School Service Commission Act with effect from 01.11.1997 mandatorily prescribing *inter alia* that that appointment to the post of a teacher has to be on the basis of recommendation of the Commission. In the said conspectus, question of regularization of the appellants' service cannot be reinvigorated and any order towards regularization would be an instance of misplaced sympathy moreso when the appellants are presently aged about 59, 67, and 64 years respectively.

12. For the reasons discussed above, we are not inclined to interfere with the order impugned in the present appeal.

13. Accordingly, the appeal and the connected application are dismissed.

14. There shall, however, be no order as to costs.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

**(Partha Sarathi Chatterjee, J.)**

**(Tapabrata Chakraborty, J.)**