

9th June, 2026
(D/L No.37)
Ct. No.4
(SKB)

F.M.A.41 of 2026

Tahiruddin Biswas
Versus
The State of West Bengal and others

Mr. M. N. Roy,
Mr. Biswarup Nandy
... for the appellant.

Mrs. Chandreyi Alam, Id. AGP,
Ms. Runu Mukherjee
... for the State.

1. The present appeal arises out of an order dated 04.11.2025 passed on the petitioner's/ appellant's writ petition. The Hon'ble Single Judge, after recording that the appellant/petitioner is a State Government employee, held the writ petition not maintainable, enabling the petitioner/appellant to approach the West Bengal Administrative Tribunal (in short 'Tribunal'). The order is dated 04.11.2025.
2. The Tribunal is non-functional since prior to issuance of the order by the writ court i.e. w.e.f. September, 2025. In absence of a functional Tribunal, the present appellant/petitioner could only approach the writ court by filing a writ petition which is to be placed before the Bench having determination in respect of service matters.
3. In view of such situation, there being a non-functional Tribunal, there is no scope for the appellant/petitioner to approach the West Bengal Administrative Tribunal.
4. At this juncture, the learned advocate for the appellant submits that the appellant is not a

State Government employee but is an employee of Block Health and Family Welfare Samity appointed on contractual basis. He, therefore, submits that the finding of the Hon'ble Single Judge that the petitioner is a State Government employee is not sustainable.

5. We find no reason to consider such submission, since in absence of a functional Tribunal the petitioner is required to avail the remedy under Article 226 of the Constitution of India before the writ court, where all issues can be considered.
6. To facilitate such consideration, we restore the writ petition bearing W.P. No.5136 of 2025 to its original file, and remand the matter for consideration.
7. The appeal is disposed of accordingly.
8. It will be open to the appellant/writ petitioner to mention the matter before the writ court for listing of the matter.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)