

Ct. 5 05.03.2026
JPD
Item No.20 Alope

In The High Court At Calcutta
In The Circuit Bench at Jalpaiguri
Appellate Side

WPA 348 of 2026

Jyoti Tamang & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Rajdeep Mazumdar, Id. Sr. Adv.
Mr. Pritom Roy
..for the petitioners

Ms. Supriya Singh
Ms. Susmita Ghosh
... for the GTA

Ms. Bedashruti Bose
Mr. Sumit Kumar
... for the State

1. The writ application has been preferred praying for direction upon the respondents to accord approval of regularisation and appointments of the writ petitioners from Contractual Ad-hoc Assistant Teachers of Primary School Teachers of the recognized and government aided primary schools in sanctioned vacant post under the district school board, Darjeeling and Kalimpong and for further direction upon the respondent no. 4 to act in terms of the reasoned decisions dated 14.08.2020 and 25.2.2022 herein, in respect of approval of appointments of the writ petitioners from Ad-hoc assistant teachers to permanent assistant teachers, as the respondent

no,4 is the sole authority/power to approve and take the decision in respect of the petitioners appointments in recognized government aided primary schools under Gorkhaland Territorial Administration.

2. The petitioner's further prayer is for direction upon the respondents no. 4 to regularize and appoint the writ petitioners in the sanctioned vacant posts where they are working presently in the light of the orders passed by the Hon'ble Court, in similar cases.

3. Heard the learned counsels for the parties.

4. On perusal of the materials on record, it appears that the petitioners' case is that they were engaged and appointed as Assistant Teachers on contract basis by the Secretary-in-Charge, Education Department, Darjeeling Gorkha Hill Council, in various primary schools within Darjeeling District under administrative control of District School Board, Darjeeling, under the different memos and the different dates mentioned in their engagement letter.

5. The petitioners joined pursuant to the engagement orders issued dated 01.08.1996, 03.08.2002, 21.05.2004, 20.11.1999, 07.12.2001, 04.02.2002, 02.02.1999, 03.08.2002, 20.11.1999 and 12.11.1998. Subsequently, their status was upgraded to ad-hoc Assistant Teachers in sanctioned vacant post in their respective

primary schools, with their pay band enhanced and fixed accordingly.

6. The petitioners have been working as ad-hoc primary school teachers in sanctioned vacant posts. Despite having the required qualification and training, the petitioners have not been regularized as permanent teachers in the recognized primary schools under the administrative control of the respondent authorities.

7. The petitioners, who were engaged and appointed as contractual Assistant Teachers in their respective schools by orders passed by the erstwhile DGHC, have had their contracts extended from time to time. As a result, the petitioners are currently continuing their respective services without any break and have been doing so under the same board since their initial appointments.

8. On coming into effect of the Gorkha Land Territorial Administration hereinafter referred to as GTA), in supersession of erstwhile Darjeeling Gorkha Hill Council (hereinafter referred to as DGHC) the petitioners and other like Assistant Teachers have been drawing their respective monthly salaries from the exchequer of Government of West Bengal, through the GTA, working against sanctioned posts.

9. It is further stated that Clause (v) and (vi) of Section 26 of the GTA Act, 2011 provides that the GTA shall have administrative, financial and executive powers in the region, in relation to School Education including primary education, secondary education, higher secondary education (including vocational training), Physical Education in Government Schools.

10. It is further stated that on 16.09.2011, the Board of Administrators DGHC now GTA held a meeting resolving again that the issue of appointment of primary school teachers be referred to the District School Board since, the said board under the GTA was to consider the issue involved therein. In all possible meetings of the erstwhile DGHC and presently GTA the question of appointment of primary school teachers were discussed and since the issue required intervention of the District School Board, as such, the same was referred to the said Board for its consideration but till date there has been no consideration of the like when it relates to approval of appointments of the petitioners as permanent Assistant Teachers in a primary school under the administrative control of District School Board, Primary Education, Darjeeling.

11. It is stated by the petitioners that it is very unfortunate that the same authority i.e. DGHC now GTA have been taking number of measures

for regularizing the services of the ad-hoc and voluntary Assistant Teachers in both Secondary and Higher Secondary Schools under the administrative control of GTA but till date there has been no concrete steps taken by the said authorities for approval of appointment of the primary school teachers appointed on contract basis and subsequently as ad-hoc, save and except referring the same to the District School Board for consideration and the said Board have also sat tight over the issue.

12. The petitioners herein have relied upon the **judgment of a Coordinate Circuit Bench (Circuit Bench at Jalpaiguri) of this Court dated 22.05.2025, passed in WPA 1264 of 2024 and WPA 1271 of 2024** wherein the Court considering the case of the petitioners therein, who are **similarly placed** as the petitioners herein, directed as follows :

*“It is well-settled in view of the ratio laid down in the judgment of the Hon’ble Supreme Court reported in **(2015) 1 SCC 347 (State of Uttar Pradesh and Others vs. Arvind Kumar Srivastave and Others)** (para 22.1 to 22.3), that when a particular set of employees is given relief by the Court, all other identically situated persons need to be fitted alike like extending such benefit. In not doing so it would amount to discrimination and would be violative of Article 14 of the Constitution of India. The*

same principle has been upheld in a subsequent judgment of Supreme Court reported in (2022) SCC Online SC 641 (Rushibhai Jagdishbhai Pathak vs. Bhavnagar Municipal Corporation).

In the aforesaid facts and circumstances, I have no hesitation in directing the respondent no. 2, 3 and 4 to regularize the service of the petitioners provided he has been appointed on temporary basis against a permanent sanctioned post. The Gorkhaland Territorial Administration, Department of Education, and in particular the respondent nos. 2, 3 and 4 shall first ascertain the number of sanctioned permanent post in respect of non-teaching staff in schools wherein the petitioners were appointed or subsequently transferred and then find out whether such permanent vacancies have been filled up. If the permanent vacancies of non-teaching staff in the said school have not been filled up then, the respondent no. 2, 3 and 4 shall issue necessary direction and documents to regularize the service of the petitioners from a given date with the corresponding scale of pay. This is more so because in view of finding of the Division Bench in **Ajay Kumar Kharka** (supra) that no official sanction or approval from the State Government is necessary for regularizing the service of a teaching staff appointed temporarily against a permanent sanctioned post, which I have already held should be applicable in respect of non-teaching staff.

The parties including the respondent nos. 2, 3 and 4 shall act on the basis of a

server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.”

13. The petitioners herein has placed copy of a memo no. **522/1R-19/DSB/GTA/DJ dated 03.02.2026**, wherein it appears that in pursuance of the order passed in WPA 1264 of 2024, the direction of the High Court has been given effect to by the said memo and they have been notionally regularized.

14. Considering the said facts and circumstances, the petitioners herein being similarly placed are also entitled to the said relief.

15. Accordingly, the respondents herein being the respondent no. 4 is directed to extend the benefit of regularization of services to the petitioners herein who have been appointed on temporary basis against permanent sanctioned post and the authorities concerned shall follow the process of such regularization as per paragraph 10 and 11 of the judgment of the Coordinate Bench in WPA 1264 of 2024.

16. **Writ application stands disposed of.**

17. As no affidavits have been called for the allegations contained in the writ application are not admitted.

18. Connected application, if any, stands disposed of.

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

(Shampa Dutt (Paul), J.)