

Form No.J(2)
Sayandeep/sb

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Raja Basu Chowdhury

WPA 517 of 2026

Smt. Rajita Datta
Vs.
State of West Bengal & ors.

For the petitioner : *Mr. Kumar Shantanu*, Advocate
Mr. Taiab Sahadat, Advocate
Ms. Nikita Paul, Advocate
Ms. Disha Sanyal, Advocate
Mr. Parthib Bhowmick, Advocate
Ms. Sonali Barman, Advocate

For the State : *Mr. Subir Kr. Saha*, Id. AGP
Mr. Sumit Kumar, Advocate

For the SSC : *Mr. Sunit Kr. Roy*, advocate

Heard on : *13.04.2026*

Judgment on : *13.04.2026.*

Raja Basu Chowdhury, J. (Oral):

1. The petitioner claims to be otherwise duly qualified to hold the post of Assistant Teacher in English, having obtained Master of Arts(English) and Bachelor of Education(B.Ed.) degrees from recognized Universities. The petitioner claims to have participated in the recruitment process initiated by the West

Bengal School Service Commission constituted under the West Bengal School Service Commission Act, 1997 (hereinafter referred to as the Commission) in the year 2011, and had become successful whereupon, a formal recommendation was issued recommending the petitioner for appointment to the post of Assistant Teacher in English (H/PG) in Ghogomali Girls' Junior High School. Following the above, an appointment letter was issued by the Secretary authorized by the managing committee of the concerned school. Such fact would corroborate from the letter dated 23rd December, 2013. The petitioner claims to have joined such post of Assistant Teacher on 2nd January, 2014 and had continued up to 30th April, 2014 whereupon the petitioner had voluntarily resigned from such post. Subsequently, however, the petitioner once again participated in the first State Level Selection test, 2016 conducted by the Commission and having succeeded, a recommendation letter was issued in her favour on 5th February, 2019 recommending her appointment at Central Girls' High School (H.S.), PO & P.S.- Kotwali, Jalpaiguri.

2. Pursuant to the above recommendation, the West Bengal Board of Secondary Education issued the appointment letter in favour of the petitioner on 27th February, 2019, appointing her provisionally to the post of Assistant Teacher (English) for

Class IX and X in the general category. Pursuant to the aforesaid, the petitioner joined the post on 1st March, 2019 and the District Inspector of Schools (SE), Jalpaiguri had granted provisional approval to the appointment of the petitioner vide memo dated 14th March, 2019. In the interregnum, however, several unsuccessful candidates had challenged the validity of the 2016 selection process whereupon by a detailed judgment and order dated 22nd April, 2024 the entire appointments therein of the Assistant Teachers stood cancelled. Records would also reveal that the above judgment was ultimately assailed before the Hon'ble Supreme Court in Civil Appeal No. 4800 of 2025 and the Hon'ble Supreme Court by an order dated 3rd April, 2025 had affirmed the said judgment with certain modification as noted in paragraph 47 of the said judgment. To morefully appreciate the same, the relevant portion of the judgment and order dated 3rd April, 2025 passed by the Hon'ble Supreme Court is extracted hereinbelow:

“ 47. Some of the appointed candidates who do not fall within the category of tainted candidates may have previously worked in different departments of the State Government or with autonomous bodies, etc. In such cases, although their appointments are cancelled, these candidates will have the right to apply to their previous departments or autonomous bodies to continue in service with those entities. These applications must be processed

by the respective government departments or bodies within three months, and the candidates will be allowed to resume their positions. Further, the period between the termination of their previous appointment and their rejoining will not be considered a break in service. Their seniority and other entitlements will be preserved, and they will be eligible for increments. However, for the period they were employed under the disputed appointment, no wages will be paid by the State Government or autonomous bodies. Further, if required and necessary, supernumerary posts may be created for persons appointed in the interregnum”.

3. The petitioner claims to be an untainted candidate and is entitled to the benefit of paragraph 47 of the judgment delivered by the Hon’ble Supreme Court on 3rd April, 2025. According to the learned advocate for the petitioner in terms of the aforesaid order, the petitioner had made an application through the school for being declared as untainted candidate and accordingly, the West Bengal Board of Secondary Education on the basis of the verification, by notification dated 1st March, 2025 had identified several candidates who are the untainted candidates, inter alia, including the petitioner at sl. No. 00044/0130. It is based on the above notification that the commission had made recommendation on 1st November, 2025 recommending for issuance of letter of appointment to the petitioner after verification of requisite documents as deemed appropriate by the

West Bengal Board of Secondary Education as appointing authority, to Salbari H.S., School.

4. According to the petitioner, the West Bengal Board of Secondary Education has since on being satisfied as regards the credentials of the petitioner in terms of the order passed by the Hon'ble Supreme Court had issued the letter dated 6th November, 2025 appointing the petitioner to the post of Assistant Teacher (Class – X-XII) against the recommendation of the Commission. The petitioner claims that since then she has resigned from the school where she had been continuing her service in terms of an interim order passed by the Hon'ble Supreme Court and had thereafter joined the Salbari H.S. School. The petitioner would contend that though the petitioner has joined the new school consequent upon the appointment order being issued, the concerned authority has not taken any steps to release the salary in favour of the petitioner. In this context the petitioner relies on the appointment letter dated 18th November, 2025.
5. Both the School Service Commission as also the District Inspector of Schools (SE), Jalpaiguri are represented. While the learned advocate for the School Service Commission would confirm the factual position noted above, the learned advocate for the District Inspector of Schools (SE) by placing before this Court a report dated 10th April, 2026 which is taken on record, would submit that since there appears to be no explanation from

the petitioner as regards her resignation on 30th April, 2014 from the earlier school, namely, Ghogomali Girls' School, Jalpaiguri and the date of joining of Central Girls' High School, Jalpaiguri on 1st March, 2019, the authorities have not been able to finalize the petitioner's case as regards extending the benefit of continuous service to the petitioner in terms of the order passed by the Hon'ble Supreme Court.

6. At this stage, the learned advocate for the petitioner, on instruction, would submit that having regard to the order passed by the Hon'ble Supreme Court if the petitioner's initial appointment is treated from 1st March, 2019, when the petitioner joined Central Girls' High School, Jalpaiguri, the petitioner would not have any grievance.
7. In this context, I may note that the Hon'ble Supreme Court in paragraph 47 of the judgment and order had observed although, the appointments of the teachers had been cancelled, the candidates despite such cancellation shall have the right to apply to their previous departments or autonomous bodies to continue in service with those entities provided, they do not fall within the category of tainted candidates. It has been further provided in such order that the period between termination of the previous appointment and their rejoining will not be considered a break in service and the seniority and other entitlements will be preserved and they will be eligible for

increments for the period they were employed under the disputed appointment though no wages will be paid by the State Government or the autonomous bodies.

8. Having regard thereto and noting that in exercise of the directives issued and in furtherance to the order passed by the Hon'ble Supreme Court both the Commission as also the District Inspector of Schools (SE) has upon ascertaining that the petitioner was untainted candidate, had made recommendation and consequentially appointment order was issued and the petitioner having joined such post, I am of the view, the benefit thereof, must be extended to the petitioner at least from the date when there is no dispute. Since, at this stage the petitioner's advocate has acceded to accept the initial date of appointment as 1st March, 2019 when the petitioner had joined the Central Girls' High School, Jalpaiguri, I am of the view that the respondents must process the case by taking note of all factors and take appropriate steps in accordance with law so that approval of service and consequential release of salary can be issued and made effective in furtherance to and in terms of the order passed by the Hon'ble Supreme Court.
9. The entire exercise in this regard must be completed by all concerned while acting in tandem with one another, within a period of six weeks from the date of communication of this order.

10. With the above observations and directions, the writ petition is disposed of.
11. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)