

Item No.6
12.02.2026
Court. No. 6
(gc)

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION*

WPA 1639 of 2025

Sarat Barman
Vs.
The State of West Bengal & Ors.

*Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya,
Ms. Mrinmayee Das,
Ms. Dayeeta Datta*

...for the Petitioner.

*Mr. Nabankur Paul,
Ms. Rima Sarkar*

...for the State.

1. The petitioner claims the benefit of Circular Nos.9008-F(P) dated September 16, 2011, 1107-F(P) dated February 25, 2016, and 1033-F(P2) dated February 8, 2019, issued by the Audit Branch of the Finance Department of the State.
2. These three circulars were issued by the State to extend certain service benefits to casual, daily-rated, and contractual workers engaged in various Government establishments.
3. The monthly remuneration and other benefits conferred under the circular dated September 16, 2011 were subsequently enhanced by the circular dated February 25, 2016. These benefits were

further revised and enhanced by Memorandum No. 1033-F(P2) dated February 8, 2019.

4. The petitioner is employed as a casual worker under a Gram Panchayat. Clause (xii) of Circular No.9008-F(P), dated September 16, 2011, explicitly applies the benefits conferred therein to Panchayat Bodies, Urban Local Bodies, and other Statutory Bodies. It is not disputed before this Court that the petitioner was engaged as a casual worker on October 29, 2013, pursuant to a resolution adopted by the Jorepatki Gram Panchayat, initially with a monthly remuneration of Rs.600/-. It is also undisputed that the petitioner has been continuously engaged since then, without interruption, for at least 240 days in each year. Upon instruction, Mr. Mishra, learned advocate appearing for the petitioner, submits that the petitioner is presently receiving a monthly remuneration of Rs.1,000/-.
5. The benefit of the aforementioned circulars has been denied by the State solely on the ground that the petitioner was not appointed against a sanctioned post.
6. Relying on Clause (x) of Memorandum No. 9008-F(P) dated September 16, 2011, the State argues that, in order to avail the benefits under the said

circulars, an employee must have been appointed against a sanctioned post.

7. These circulars have been examined by different Benches of this Court on multiple occasions. The legal position has been clarified in the judgment dated **July 4, 2024**, rendered in **MAT 429 of 2024 (The State of West Bengal v. Ranjit Saha & Ors.)** and **MAT 430 of 2024 (The State of West Bengal & Ors. v. Akbor Ali & Ors.)** by a Division Bench of this Court.
8. Clause (x) of Memorandum No. 9008-F(P), dated September 16, 2011, is quoted below:

“x) The provisions of this Order will not be applicable where contractual engagement has been made without any sanctioned post and for any specific project for a very temporary period up to a maximum 6 (six) years or finishing up the project whichever is earlier. Thus in such cases steps will not be required to be initiated for filling up the posts through regular appointments as per the Recruitment Rules, since the posts are temporary by nature.”

9. The Division Bench has held that conditions as stipulated above must be read cumulatively, forming a single, continuous requirement.
10. The relevant portion of the Division Bench decision is reproduced below:

“20. The exclusion clause of the memorandum dated September 16, 2011

namely, Clause (x) has to be construed strictly as against the State as the State is the author thereof. Moreover, State has extended benefits to casual/daily rated/contractual workers by such memorandum. Therefore, such clause has to be interpreted so as to extend the benefits to such targeted beneficiaries.

21. *Reading clause (x) of the memorandum dated August 16, 2011 on the anvil of the propositions noted in the preceding paragraph, it provides that, the benefits of the memorandum will not be available when the following conditions are simultaneously satisfied namely:-*

i. Contractual engagement had been made without any sanctioned post.

ii. Contractual employment had been made for specific project.

iii. Contractual employment had been made for a maximum period of 6 years or till the conclusion of the project whichever is earlier.

22. *In our understanding, all three conditions as noted above have to be satisfied for a contractual employee to be denied the benefits of the memorandum dated September 16, 2011 by reason of Clause (x) thereof.”*

11. This Court has no scope to take a different view.

Mr. Mishra, learned advocate, has also drawn the attention of this Court to an order dated **November 25, 2024**, passed by the Hon’ble

Supreme Court in **Special Leave Petition (Civil) Diary No(s). 38267/2024**, whereby the Special Leave Petition filed against the judgment of the Hon'ble Division Bench was dismissed.

12. In view of the above, it cannot be contended that the petitioner is disentitled to the benefits of the aforesaid circulars merely on the ground that he was not appointed against a sanctioned post.
13. This Court is further of the view that, while the issue of regularisation may legitimately require consideration of whether an employee was appointed against a sanctioned post, the same consideration becomes irrelevant when the question pertains to the application of the principle of "equal pay for equal work".
14. This position is supported by the judgment of the Hon'ble Supreme Court reported at **(1986) 1 SCC 637 (Dhirendra Chamoli v. State of U.P)**. In that case, two Class-IV employees of the Nehru Yuvak Kendra, Dehradun, engaged as casual workers on a daily-wage basis, claimed that they were performing the same duties as Class-IV employees appointed on a regular basis. The reason advanced for denying them the pay scale applicable to regular employees was that no sanctioned posts were available to accommodate the petitioners, and therefore, according to the

respondent- employer, they could not be extended the benefits permissible to regular employees. Their claim was further resisted on the ground that the petitioners had accepted employment with the Nehru Yuvak Kendra with full knowledge that they would receive only the emoluments payable to daily-wage casual workers, and thus could not seek anything beyond what they had voluntarily accepted. The Hon'ble Supreme Court held that it was impermissible for the Government to exploit citizens, particularly in a welfare state committed to a socialist pattern of society. The argument advanced by the Government was found to be violative of the guarantee of equality enshrined in Article 14 of the Constitution. The Hon'ble Supreme Court held that Article 14 mandates equality before the law and equal protection of the laws, from which the principle of 'equal pay for equal work' necessarily follows. Upon finding that employees engaged by various Nehru Yuvak Kendras across the country were performing duties similar to those performed by regular Class-IV employees, the Court held that they were entitled to the same salary and service conditions as regular Class-IV staff. It was held that the existence or nonexistence of sanctioned posts was immaterial; so long as the employees were carrying

out the same duties, they were entitled to the same remuneration.

15. Therefore, I am unable to accept the contention of the State that the petitioner cannot be extended the benefit of the circulars merely because he was not appointed against a sanctioned post.
16. Turning to the facts of the present writ petition, it appears that the petitioner was appointed on April 16, 2013. However, he filed this writ petition only in the first week of August, 2025.
17. The petitioner could have approached this Court earlier for claiming the benefit of the circular dated September 16, 2011, particularly clause (iv) thereof, which stipulates that a contractual worker who has not completed ten years of service shall be provided remuneration equivalent to 75 per cent of the prescribed rate, subject to a minimum of Rs. 5,000/- per month. Even after issuance of the subsequent circular dated February 25, 2016, by which the monthly remuneration was enhanced, the petitioner chose not to move this Court. Likewise, he waited for nearly five years after the introduction of the circular dated February 8, 2019, which provided for a further enhancement of remuneration.
18. In these circumstances, I am of the view that the petitioner, at best, is entitled to back wages only

for the period commencing three years prior to the filing of the writ petition, as the Supreme Court has considered three years to be the normal period of limitation for filing a writ petition.

19. In view of the above facts, the writ petition is disposed of with a direction to the State to extend to the petitioner the benefit of Circular No. 1033-F(P2) dated February 8, 2019, with effect from July 1, 2021, together with arrears within one month from the date of communication of this order, provided the petitioner can satisfy the authority with regard to continuity of his service as on date.

20. Accordingly, the writ petition is disposed of.

21. There shall be no order as to costs.

22. The parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)