30.09.2026
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WPST 79 of 2026
Gopi Kanta Dhara
– Versus –
The State of West Bengal & Others

Mr. Sarbananda Sanyal,
Ms. Poulami Chakraborty
… for the Petitioner.
Ms. Chandreyi Alam,
Ms. Kakali Dutta
… for the State/Respondents.

Records would reveal that the writ petitioner herein, namely, Gopi Kanta Dhara (in short, Gopi) preferred an original application (in short, OA), being OA 634 of 2023 praying for issuance of necessary direction upon the respondents to grant the benefits of the Modified Career Advancement Scheme, 2001 (in short, the Scheme) upon completion of 25 years of continuous service together with all consequential benefits including the revised benefits of pension to which he would have been entitled on and from the date of his retirement on 31st March, 2013 along with interest. The said OA was initially dismissed by the learned Tribunal on the ground of limitation by an order dated 2nd July, 2024. Challenging the same Gopi preferred the present writ petition, being WPST 79 of 2026 in which an order was passed by a co-ordinate Bench of this Court on

20th April, 2026 negating the respondents' stance that Gopi's claim was barred by limitation. By the said order the Court also directed the respondents to file an affidavit-in-opposition incorporating the steps taken pursuant to the communication dated 5th July, 2016, issued by the respondent no.2. Pursuant to such direction, an affidavit-in-opposition has been filed on behalf of the respondents.

This case has a chequered history. Gopi was initially appointed as Chowkidar-cum-Mazdoor with effect from 13th April, 1984 under the work charge establishment *vide* memo dated 6th April, 1984. Subsequent thereto, he was re-designated to the post of Mazdoor with effect from 18th June, 1985. Thereafter, he was granted the benefits of the Scheme upon completion of 10 years and 16 years of service with effect from 13th April, 1994 and 1st April, 2001 respectively. However, the 25 years' benefits under the Scheme to which Gopi became entitled though granted with effect from 29th January, 2010 was subsequently discontinued after eleven months on and from 7th January, 2011. Representations submitted thereafter were not attended to and ultimately Gopi retired on 31st March, 2013. Even after retirement Gopi submitted several representations to grant him the admitted benefits but still the

same were withheld. Being a Mazdoor surviving on a paltry pension of Rs.3363/- it was impossible for him to approach the Hon'ble Court immediately. However, ultimately Gopi approached the learned Tribunal in the year 2023 but his application was rejected mechanically on the ground of limitation. The said order passed by the learned Tribunal was immediately interfered with by a co-ordinate Bench of this Court by a detailed order dated 20th April, 2026 and pursuant to the direction of the Hon'ble Court, the respondents ultimately were constrained to file an affidavit-in-opposition wherein it has *inter alia* been admitted that Gopi was entitled to the benefits of the Scheme upon completion of 25 years of service but the same could not be disbursed in the absence of concurrence from the Finance Department. However, Gopi was thereafter given the said benefits by a memo no. 2653/1(7) from 29th January, 2010 but such benefit was abruptly cancelled after 11 months on and from 7th January, 2011, by a memo no. 25/2(6) without disclosing any reason whatsoever and without granting any opportunity of hearing. In the said affidavit-in-opposition the respondents have sought to defend their action on a purported plea that no integrity clearance and concurrence was obtained from the Finance Department.

The OA was filed annexing the following documents. The first document is a memo dated 23rd July, 2014 issued by the respondent no.3 to the respondent no.2 recommending re-designation of Gopi from Chowkidar-cum-Mazdoor to Mazdoor and towards grant of 25 years' service benefits under the Scheme. The second document is a memo dated 5th September, 2014 issued by the respondent no.2 to the Chief Engineer (Electrical) – I, PWD for awarding the 25 years' benefits under the Scheme in favour of Gopi. The third document is a memo dated 15th July, 2015 issued by the respondent no.3 to the respondent no.2 forwarding the service particulars of Gopi for grant of financial benefits under the Scheme. The fourth document is a memo dated 5th July, 2016 issued by the respondent no.2 to the Chief Engineer (Electrical) – I, PWD for grant of the benefits stating *inter alia* that they are '*facing embarrass situation from different parts of different angles in this respect*' and annexing a list of persons eligible for re-designation and consequential benefits under the Scheme in which Gopi's name featured under serial no.15. However, the Chief Engineer maintained a deceptive silence. A memo dated 19th June, 1985 has been brought to the notice of this Court wherefrom it appears that the names of Gopi and

one Dhirendra Nath Chatterjee were incorporated in the same list and Dhirendra Nath Chatterjee was granted the benefits of the Scheme upon completion of 25 years of service, as would be explicit from a memo dated 26th February, 2010, annexed in the OA. The said sequence of facts reveals that high officials of the State have taken the advantage of a person, who was working as a Mazdoor and who ultimately retired in the year 2013 without getting the benefits he was entitled to.

Mr. Sanyal, learned advocate appearing for Gopi submits that the benefits under the Scheme upon completion of 25 years of continuous service was initially granted in favour of Gopi by a memo dated 29th January, 2010 but without any reason such benefit was withdrawn eleven months thereafter by a memo dated 7th January, 2011. Such act itself shows that the respondents have been vindictive against Gopi, who was a helpless person surviving on a paltry amount of pension.

Ms. Alam, learned Additional Government Pleader appearing for the State/respondents submits that the benefits could not be extended as no concurrence was obtained from the Finance Department and that such concurrence might have been withheld on the ground of integrity clearance.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, Gopi was granted the benefits of the Scheme upon completion of 10 years, 16 years and also 25 years of service. However, without any reason whatsoever the 25 years' benefits were stopped suddenly after eleven months. From the memoranda exchanged by the respondent nos.2 and 3 and the Chief Engineer, it appears that they themselves were embarrassed as formal concurrence was not being extended by the Finance Department. However, they do not have any explanation whatsoever as to how identical benefits were given to the persons similarly situated with Gopi and as to why the 25 years benefit of the Scheme was granted to Gopi and withdrawn after 11 months.

The argument that an integrity clearance is required for grant of such benefit is also not acceptable to us. Had such reason been a ground, Gopi would not have been granted the 25 years benefits under the Scheme for 11 months.

In a recent judgment delivered by the Hon'ble Supreme Court in the case of *Bhola Nath Vs. The State of Jharkhand*, reported in *2026 INSC 99*, it has been observed that there is an imbalance in the bargaining power of the State and a poor

employee. Such inequality of bargaining power is the result of a great disparity in the economic strength of the contracting parties and are contracts amongst a '*lion and the lamb*'. The State is a model employer and it must conduct itself with high probity and candour and ensure that its employees do not succumb to the procedural rigmarole. Justice cannot be forsaken on the altar of technicalities. Gopi cannot be denied the benefits as extended to the employees similarly situated. State is under an obligation to extend the benefits to all employees who are similarly situated [See the judgment delivered in the case of *B.C. Nagaraj & Another Vs. State of Karnataka & Others*, reported in *2023 (6) Supreme 542*].

Applying such proposition of law to the facts of the case, this Court directs the respondents including the Principal Secretary of the Public Works Department to grant the actual benefits pertaining to the 25 years' benefit of the Scheme to Gopi with effect from the date of withdrawal of such benefit on 7th January, 2011 till his date of retirement on 31st March, 2013. Upon such grant of 25 years' benefits under the Scheme, the respondents shall refix Gopi's pay and disburse the pensionary benefits along with all arrears calculated on the re-fixed scale of pay. Such benefits shall be disbursed in favour of Gopi by

the respondents within a period of twelve weeks from the date of communication of this order. The said period as fixed for disbursement is mandatory. In the event such benefits are not disbursed within the period as specified, the respondents would be liable to pay interest over the entire amount at the rate of 12% per annum.

With the above observations and directions the writ petition is disposed of setting aside the impugned order passed by the learned Tribunal.

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

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

(Partha Pratim Roy, J.) **(Tapabrata Chakraborty, J.)**