IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-
The Hon'ble Justice Tapabrata Chakraborty
And
The Hon'ble Justice Partha Pratim Roy

WPST 118 of 2025

Afroja Begum
Vs.
State of West Bengal & Ors.

For the Petitioner : Mr. Biswarup Biswas, Adv.,
Mr. Pradip Kumar Ghosh, Adv.

For the Respondent No.3 :Mr.Sourav Mondal, Adv.,
Mr. Avijit Tantubay,Adv.

For the State : Ms. Chandrayi Alam, Ld. AGP.,
Ms. Renu Mukherjee, Adv.,

Heard on :15.10.2026.

Judgment delivered on : 15.10.2026.

Partha Pratim Roy, J.:

1. The petitioner's case is that her husband namely Kader Ali (in short Kader) was appointed as a Khalasi under Lower Damodar construction division (under Irrigation, and Water Ways, Government of West Bengal, Department) on daily rate basis since 1981.

In recommendation of such service rendered, he was regularized with effect from 13.03.1996. Subsequently, after attaining the age of superannuation the husband of the said petitioner retired from his service on 31st March, 2005 having rendered 07 years 11 months as a regular Government employee. There was thus, a short fall of about 2 years 01 month in qualifying service, as such that he was not granted pension, therefore aggrieved by the inaction. That in spite of retirement, the husband of the petitioner did not receive any pension accordingly, the representation was made but same was not considered.

That Kader died on 22nd July, 2010 and the wife being the petitioner filed an application before the State Administrative Tribunal which was registered as O.A No. 991 of 2018 inter alia prayed for that the husband of the applicant had been working on engagement since 1981 without any break under the respondent No.4 who regularized the appointment in the year 1996 after working for 24 years, but no pension was released and disbursed to the husband of the applicant who repeatedly sent representations and also personally visited in the office of the respondent.

2. During the pendency of the aforesaid application, the learned Tribunal was not functioning. The petitioner was thus rendered remediless and as such that she preferred to represent writ application.

3. Drawing the attention to the memo dated 17th November, 2006 issued by the Sub-Divisional Officer Damodar construction, sub-

division no. 3. Mr. Biswas submits that Kader continued as a master roll staff on and from 1st July, 1982 to 12th March, 1996 that is Five thousand 1 days and he has also worked as Khalasi staff from 13th March 1996 to 31st March, 2005. Mr. Biswas further contended that person similarly situated with Kader, who discharged service as Khalasi, as daily related labour, master roll worker in the office of lower Damodar construction division (under Irrigation and waterway, Government of West Bengal, department) was also granted the pensionary benefits condoning the deficiency in qualifying service.

4. In support of such contention reliance has been placed upon a judgment settled in the case of ***Hiralal Ghosh vs. State of West Bengal & Ors. (WPST 172 of 2024)***. The said judgment was also appealed against by the State and its functionaries in a special leave petition (in short SLP) which was ultimately dismissed on 31st August, 2026 by Hon'ble Supreme Court noting that a same matter being SLP C 216 of 2026 has also been dismissed by the Hon'ble Supreme Court on 4th May, 2026.

5. He further submits that the issue as regards counting the period of temporary service for the purpose to grant pensionary benefit is no longer res-integra and has been settled in the case of ***State of West Bengal vs. Hiralal Ghosh*** and also in ***Niranjan Bisai vs. State of West Bengal (WPST 104 of 2026)***. He prayed for disbursement of the pensionary benefit by taking into account of the temporary service of her

husband and to disburse the same. Mrs. Alam, learned Additional Government Pleader appearing for the said respondents submits that Kader's initial engagement as a daily rated worker was not an appointment against a permanent vacancy. Such engagement cannot be considered for the purpose of calculating the qualifying service as required under the death cum retirement scheme (DCRB).

6. Heard the learned advocates appearing for the respective parties and considered the materials-on-record.

7. The memo dated 17.02.2006 issued by the concerned Sub-Divisional Officer clearly reveals that the husband of the petitioner continued as master roll worker from 1st July, 1982 to 12th March, 1996 equivalent to 5 thousand 1 days and also worked as Khalasi staff from 13.03.1996 to 31st March, 2005. Ultimately, in consideration of such service rendered by the husband of the petitioner, he was regularized and appointed/absorbed in the post of Khalasi under the work charge establishment vide office order no. 285 dated 21.07.1997.

8. In the matter of *Hiralal Ghosh* supra and *Niranjan Bisai* supra the husband of the petitioner who had also worked as a temporary employee till he was regularized against an existing vacancy. Taking into consideration such fact, a coordinate bench of this court was pleased to direct that service rendered as a temporary employee be added to service so that he fulfills the requisite tenure for qualifying service for the grant of pensionary

benefits and the respondents were also directed to proceed to grant the pensionary benefit along with arrears, with effect from the date, when he attains superannuation. The special leave petition preferred against said judgment before the Hon'ble Supreme Court had already been dismissed by an Order dated 31st August, 2026. The issue that temporary service rendered by an employee can be taken into consideration for qualifying service is thus, no longer res integra. The stand taken by the respondents that the temporary service cannot be considered for the purpose of holding qualifying service to grant pensionary benefit is not acceptable.

9. In the said conspectus, the OA No. 991 of 2018 and the present writ application are disposed of by directing the respondents to condone the deficiency of 2 years 1 month in qualifying service of the husband of the petitioner namely Kader and to disburse the pensionary benefits along with arrears with effect from the date, he attained superannuation that is on 31.3.2005 and for the period thereafter till the date of demise of the petitioner's husband that is on 22nd July, 2010. We further direct the petitioner being the widow of Kader, be granted the dues and family pension till date and to be paid month by month thereafter.

10. The entire exercise shall be completed within the period of three months from the date of receipt/production of a copy of this order.

11. The writ petition is thus, allowed.

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

13. Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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