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MAT 1039 of 2026
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IA No.: CAN 2 of 2026
Jyostna Bakshi @ Jyotsna Bakshi
– Versus –
State of West Bengal & Others

Mr. Tanmoy Chattopadhyay
Mr. Jay Laha
… for the Appellant.

Mr. D. N. Ray,
Mr. Piush Chaturvedi,
Ms. Mary Dutta
Mr. Sourav Haldar
Ms. Diya Chakraborty
… for the State/Respondents.

The present appeal has been preferred by writ petitioner/appellant herein, namely, Jyostna Bakshi @ Jyotsna Bakshi (in short, Jyotsna) primarily praying for the following reliefs:

a) A writ of or in the nature of Certiorari quashing the impugned order dated February 29, 2024 communicated by the letter dated March 01, 2024 more particularly Annexure P/17 to this writ petition thereby directing the respondents, their subordinates and agents to immediately release all arrears of the salary due since December 2022 till date with interest to the petitioner.

c) A Writ of or in the nature of Mandamus commanding the respondents, their subordinates and agents to immediately extend all benefits to the petitioner in terms of the Government Memos relating to the enhancement of pay and also security of tenure and also other benefits contemplated therein as provided in the memos attached as part of Annexure P/11 to this writ petition.

By the impugned order dated 10th December, 2024, the learned Single Judge directed the respondents to pay remuneration to Jyotsna for the period from 1st December, 2022 till 29th November,

2024 within 30th April, 2025 with accrued interest thereon @ 6% per annum failing which interest will accrue on the entire amount @ 8% per annum from the date it remained unpaid till the date of actual payment. In the said order, however, an observation was made to the effect that *'although, the petitioner says that she is still continuing in service but in absence of any document being placed before the Court to conclude that the petitioner is still continuing, it will not be prudent for this Court to hold that the petitioner is still in continuous service'.*

Mr. Chattopadhyay, learned advocate appearing for Jyotsna submits that the directions towards payment of remuneration have not yet been complied with and on the other hand, in view of the observation quoted above, the respondents have discontinued the services of Jyotsna. The specific prayer made in the writ petition seeking necessary direction upon the respondents towards enhancement of pay and security of tenure, as contemplated in the memo dated 16th September, 2011 has not been considered. Aggrieved thereby, Jyotsna has approached this Court.

Drawing our attention to a memo dated 1st March, 2006 issued by the respondent no.4, Mr. Chattopadhyay submits that Jyotsna was engaged as Facilitator in the Positive Deviance Programme (in short, PDP) attached with the office of the respondent

no.4. Upon joining, the authorities twice extended the engagement of Jyotsna by agreements dated 6th March, 2006 and 1st March, 2007. Subsequent thereto, by a memo dated 19th August, 2013, the respondent no.7 detailed the salary structure of a Block Facilitator of PDP and in consonance with the salary structure Jyotsna was being paid a monthly amount of Rs.9,110/-. A working certificate issued by the respondent no.7 dated 8th September, 2014 would also reveal that the Jyotsna's services were being utilized and the payment register would also reveal that she was described to be a PDP staff. Surprisingly, such payment of remuneration was stopped on and from the month of December, 2022. Aggrieved thereby, Jyotsna filed a writ petition, being WPA 23976 of 2023 which was disposed of by an order dated 17th October, 2023, observing *inter alia* that Jyotsna was rendering service as a contractual employee at various Integrated Child Development Scheme (ICDS) Projects since 3rd June, 2009 and as no explanation was forthcoming as to why her remuneration was stopped from the month of December, 2022, the learned Single Judge relegated the issue for consideration to the respondent no.4, who, in turn, passed an order on 29th February,2024 observing *inter alia* that the Finance Department circular dated 15th July, 2019 on the basis of which Jyotsna's claim was directed to be considered does

not apply to her case since she was not redeployed in compliance of the earlier Finance Department circular dated 1st August, 2014.

He contends that Jyotsna's service was utilized by the respondents admittedly for a period of more than 10 years in a particular project which is still continuing and on the strength of such continuous service and in terms of the memo dated 16th September, 2011 issued by the Special Secretary, Finance Department, Jyotsna has earned a right towards security of tenure till the age of 60 years. Such issue, as urged, was glossed over by the learned Single Judge and no finding was returned on the same. In support of such arguments advanced, reliance has been placed upon a judgment delivered in the case of *Prosenjit Das vs. State of West Bengal & Ors.,* reported in *2026 SCC OnLine Cal 3488,* an unreported order dated 23rd August, 2024 passed in *WPST 78 of 2024 (Rabindranath Pramanik vs. The State of West Bengal & Ors.)* upheld by the Hon'ble Supreme Court on 21st March, 2025 in Special Leave Petition (in short, SLP) and a judgment delivered by Hon'ble Supreme Court in the case of *Jaggo vs. Union of India,* reported in *2024 INSC 1034*. The order passed in *Prosenjit Das* (*supra)* has been complied with by the respondents *vide* memo dated 29th June, 2026.

Mr. Chaturvedi, learned Senior advocate appearing for the State respondents denies and disputes the contention of Mr. Chattopadhyay and submits that the PDP was discontinued *vide* memo dated 22nd May, 2013 issued by the State Mission Director. Upon such discontinuance of PDP and in view of the services rendered by Jyotsna for a certain period of time, the respondents used to engage her thereafter on day-to-day basis as and when the situation demanded. On the strength of such services, Jyotsna cannot claim the benefits of the memo dated 16th September, 2011. It is an admitted fact that Jyotsna could not establish her continuance in service after the month of December, 2024 and as such it was rightly observed by the learned Single Judge that as Jyotsna failed to produce any document as regards such continuity of service it would not be prudent for the Court to hold that she is still in continuous service. Such observation does not suffer from any infirmity warranting interference in appeal.

He argues that the memo dated 19th August, 2013 issued by the respondent no.7, upon which reliance has been placed by Mr. Chattopadhyay, is nothing but a memo containing an intimation as regards the remuneration of Jyotsna. The memo dated 8th October, 2013 issued by the respondent no.7 is a memo issued by the ICDS Cell and is not

binding upon the State Government. The memo dated 28th July, 2011 issued by the Additional Mission Director, NRHM and the memo dated 7th September, 2015 issued by the Joint Secretary, Women & Child Development and Social Welfare Department would reveal that there was no decision towards permanent engagement or absorption of Jyotsna.

In reply, Mr. Chattopadhyay has placed before this Court a memo dated 11th December, 2013 issued by the Secretary, Child Development and Women Development and Social Welfare Department in support of his contention that PDP was operational in the year 2013 and as such the argument of Mr. Chaturvedi that Jyotsna's service was not utilized under a scheme may not be acceptable. Let the said memo be kept on record.

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

Records reveal that in course of hearing of the writ petition a report in the form of an affidavit was filed by the respondent no.7 wherein the stance of the State was that Jyotsna's service was being utilized as per requirement at the office of the Child Development Project Officer, Raiganj Rural ICDS Project in compliance of a direction contained in a memo dated 7th September, 2015 and that the

remuneration of the personnel of PDP was paid as and when funds became available through allotment under the particular financial head corresponding to payment of honorarium of Anganwadi Workers and Anganwadi Helpers. The system of payment of such honorarium through HRMS was discontinued and the system of paying honorarium through PFMS was adopted. As under PFMS no extra fund was made available, Jyotsna could not be paid remuneration after the month of November, 2022. However, in course of hearing it has been argued on behalf of the State that the PDP was discontinued by a memo dated 22nd May, 2013 issued by the State Mission Director but from the records placed before this Court it does not appear that the said memo was implemented moreso when, in the earlier round of litigation it has been admitted by the respondents that Jyotsna had worked till the month of November, 2022 and the register maintained by the respondents, as placed before the learned Single Judge, also reveals that Jyotsna had been in continuous service as a staff in PDP. The judgment delivered in the case of *Prosenjit Das* (*supra*) has also been complied with by the respondents taking necessary steps in terms of the memo dated 16th September, 2011, as would be explicit from the memo dated 29th June, 2026 issued by the respondent no.5.

In the case of *Rabindranath Pramanik (supra*), it was observed by a Co-ordinate Bench of this Court that a composite reading of the memoranda dated 16th September, 2011, 8th February, 2019, 15th July, 2019 and 1st March, 2024 would reveal that the object and purpose of the said memoranda are inextricably bound and that the beneficent scheme would be thrown out of gear in the event a restrictive meaning is applied and the benefits of enhanced remuneration are not extended to the writ petitioner therein, who had worked continuously since the year 1981. The SLP preferred against the said order was also dismissed by the Hon'ble Supreme Court.

A beneficent scheme was formulated by the State as would be explicit from the memo dated 16.09.2011. The intent and purpose of the same was to provide security of tenure, appropriate emoluments and certain terminal benefits. Jyotsna's service has been utilized for about two decades and in the said conspectus, she cannot be discontinued on a purported plea that the PDP has been discontinued.

As a model employer, a State instrumentality must conduct itself with high probity and candour and ensure that its employees do not succumb to any discriminatory practice in the procedural rigmarole. Prosenjit, a staff working in PDP project under ICDS has already been granted the benefits of

the memo dated 16th September, 2011 and as such the respondents cannot apply a different yardstick in case of Jyotsna.

For the reasons discussed above, the respondents, including the Secretary of the Women & Child Development and Social Welfare Department as well as the Secretary, Health & Family Welfare Department, Government of West Bengal are directed to allow Jyotsna to render service till she attains the age of 60 years in terms of the memo dated 16th September, 2011 and to disburse the remuneration payable to Jyotsna till the month of November, 2024, as directed and to continue such disbursement till she attains the age of 60 years. It is also made clear that the respondents shall grant the benefits of enhanced remuneration, as effected from time to time.

The above exercise shall be completed by the respondents within a period of 8 weeks from the date of communication of this order.

The order impugned in the present appeal is set aside to the extent as discussed above and the appeal together with the connected application is disposed of.

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.)**