

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 3022 of 2013

Tithi Adhikary

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Dibyayan Banerji
: Mr. Soham Kumar

For the State : Mr. Subhendu Bandopadhyay
: Mr. Subhendu Sengupta

For the respondent
Nos. 2 & 3 : Mr. Arjun Roy Mukherjee
: Ms. Debapriya Mitra
: Mr. S. Mukherjee

Reserved on : **30.01.2026**

Judgment on : **17.02.2026**

Rai Chattopadhyay, J. :-

- 1) The writ petitioner is the erstwhile Group-C staff of Uluberia East Circle and Bally West Circle, Howrah under the District Project Director, Sarba Shikkha Mission, Howrah, who has subsequently discharged duty as a departmental assistant in the secretariat of the Education Minister, Government of West Bengal. She is aggrieved with and challenges in this writ petition, termination of her service, which she says is illegal. The writ petitioner has prayed for reinstatement in service as a Group-C employee.
- 2) The writ petitioner was selected through a process of written test and interview to be appointed as above. She has joined in her post on and from May 2, 2007 at Uluberia East Circle, Uluberia Block-II, Howrah. After one year the petitioner was transferred from there to Bally West Circle, Howrah vide an order issued by the District Project Officer/respondent No. 6 dated November 27, 2008. The

petitioner's service was extendable every year. Thus, her service was extended each year starting from the year 2007 till March 2010. According to the petitioner, after March 2010, her service has never been extended by the respondent authorities, allegedly unauthorisedly and illegally. The petitioner's prayer for redress in her written representation submitted before the respondent authorities fell only to deaf ears.

- 3) However, her relief came consequent to her later submitted before the Minister in Charge, School Education Department, West Bengal, when after considering the report of the concerned department, she was ultimately allowed to work as a departmental assistant in the sec. 8 of the Minister in Charge. The petitioner joined her new office at Bikash Bhawan on and from October 5, 2010. She worked there continuously and in lieu of appropriate salary till August 21, 2012. Allegedly, on August 21, 2012 her service was verbally terminated by the Officer on Special Duty to the Minister in Charge/respondent No. 7, with retrospective effect from August 16, 2012. Since in spite of her asking no written order of termination was served upon her, the petitioner continued to work in the said office up to October 31, 2012. On and from November 1, 2012, a new incumbent was inducted in the post where the petitioner was discharging duties in the secretariat of the Minister in Charge. Allegedly, all had representations made thereafter to seek reinstatement have never been considered. Petitioner has further alleged that all her colleagues have been duly extended in service and she solely has been illegally and arbitrarily ousted by the authorities. Hence, being aggrieved, she has filed the instant writ petition to seek relief as stated above.
- 4) It is revealed from the affidavit filed by the respondent/Sarba Shikkha Mission, that in service in Bally West Circle, the petitioner was issued a show cause notice dated December 7, 2009, on the allegation of dereliction of duty due to non-rectification of UDISE data. The petitioner has replied to the said show cause notice vide a letter dated December 9, 2009, which is said to have been found as unsatisfactory. According to the said respondent, since thereafter the nearly contract of the petitioner was no further renewed beyond March 15, 2010. A formal order was issued in this regard dated April 5, 2010 and due communication was made to the authorities at Bally West Circle, Howrah.
- 5) Mr. Dibyayan Banerji learned advocate has represented the petitioner in this case. He submits that the petitioner has suffered

gross illegality and arbitrariness and lost her job and livelihood due to the alleged acts of the respondent authority. It is submitted that the one year service contract of the writ petitioner was extendable every year and the same has been duly extended after end of each completed year of service, till March 15, 2010. In this regard a note sheet of the respondent in File No.06/2009 dated March 16, 2010 has been referred to submit that the writ petitioner's name was incorporated therein, along with the other incumbents to be extended in service for the period from March 16, 2010. Mr. Banerji learned advocate has termed the termination letter of the petitioner dated April 5, 2010, as an afterthought one if not an out and out fabricated document and hence, bad in law. It is submitted that the same has been issued only after expiry of the contract and copy thereof has never been served upon the petitioner. It is submitted that the petitioner has been allowed in phases, to continue with her service at the secretariat of the Minister in Charge and has been provided with salary and other service emoluments for the period. In such view of the fact, the petitioner's verbal termination stands in gross violation of the principles of law, natural justice and fairness. Lastly, Mr. Banerji has relied upon a government memorandum dated April 23, 2010 [to be effected from June 1, 2010], to submit that in terms thereof the writ petitioner is eligible for reengagement till attaining her 60 years of age.

- 6) Mr. Banerji, learned advocate for the writ petitioner has submitted that even in case of a contractual appointment, the authority has to mandatorily follow the principles of natural justice, before any punitive termination of such service is given effect to. He refers to judgments of High Court of Jammu, Kashmir and Ladakh in **Firoz Ahamed Sheikh and Others versus Union Territory of Jammu & Kashmir** in WP(C) No. 2260 of 2022 dated December 16, 2023 and that of Orissa High Court in **Bichitrananda Barik versus State of Orissa and Others** in WP(C) No. 10146 of 2018 dated February 21, 2023, in this regard. He also refers to a judgment of Supreme Court in **Swati Priyadarshini versus State of Madhya Pradesh & Others reported at 2024 SCC Online SC 2139** which has reiterated the principle that stigmatic non-renewal of contract predominantly requires to be met with the due compliance of principles of natural justice with the delinquent or otherwise it is bad in law.
- 7) The respondents Sarba Shikkha Mission as well as State have raised strong objections to the contentions and prayer of the writ petitioner. Mr. Subhendu Bandopadhyay has represented the Sarba

Shikkha Mission. His first contention is that in this case, the petitioner has not been able to bring on record that her legal right has anyway been violated by the action or inaction of the concerned respondent. It is submitted that in absence of the same the instant writ petition of her is liable to be dismissed being not maintainable. Mr. Bandopadhyay says that the petitioner's appointment is for one year extendable as per discretion of the authorities. That due to dereliction of duty her service has not been extended any further after March 15, 2010. That the respondent is empowered to exercise such discretion, in a suitable and appropriate case. He has objected to the contention of the writ petitioner that any illegality or arbitrariness has taken place in the steps taken by the said respondent. Mr. Bandopadhyay has submitted that the petitioner's appointment with the secretariat of the Minister in Charge was overriding the objections put forth by the department which he represents and also without compliance with the formalities for any public appointment as per law. In this regard he has referred to the relevant office notes of the department and the comment of the Minister in Charge over there. He has referred to a judgment of the Supreme Court in ***Smt Kanika Das versus the State of West Bengal & Others* [(1992) 1 Cal LT 264]**, that order (of transfer) passed by the authority under influence of the Minister, has been held as illegal and bad.

- 8) Mr. Arjun Roy Mukherjee, learned advocate while representing the State has adopted the submissions made on behalf of the Sarba Shikkha Mission and relied on the report submitted dated December 11, 2025. According to this respondent, service of the petitioner was terminated due to non-renewal of the contract which had no punitive implication. Also, that her appointment with the secretariat of the Minister in Charge was at the instance of the Minister himself in his personal capacity and her remuneration was bourn out of project management/contingent fund of the Sarba Sikkha Abhijan (SSA) since there was no sanctioned post under the department/secretariat of the said Minister.
- 9) The petitioner was appointed purely on contractual basis, vide the letter of the District Project Officer, Sarba Shikkha Mission, Howrah, dated April 20, 2007. Admittedly her service was terminable at the end of each contract period of one year though subject to renewal and extension upon entering into a new contract on the beginning of the subsequent year. Following such terms and conditions the petitioner's service was extended in the years 2008 and 2009. In November 2008 the petitioner was transferred and on December 7,

2009, she has been issued a show cause notice. Her service was found as not satisfactory. Ultimately, vide a letter dated April 5, 2010, the Additional District Magistrate (General), Howrah has informed the Circle Project Coordinator, Bally West Circle, Howrah, that service contract of the petitioner has not been renewed after March 15, 2010. The petitioner's challenge as to the said letter is that the same has been issued arbitrarily without any enquiry and finding or granting her any opportunity to defend her cause. Allegedly, the same has been issued after expiry of the earlier contract period, when she has already devoted labour for part of the period in the next contractual year. However, it appears that the letter dated April 5, 2010, is only a communication of the decision of the authority already taken, that too for a specific purpose that the files and documents should be collected from the petitioner if not has already been done.

- 10) The appointment of the writ petitioner being purely on contractual basis, leaves to legal and vested right to her unto the post after expiry of the contract period, unless and until the contract is formally renewed by the competent authority. The law is settled in this regard that a contractual employee does not acquire a vested or indefeasible right to continue in service after the expiry of the contractual period. Expiry of a contract of service is not termination, but a natural end of tenure. Continuation beyond the contract period cannot be claimed as a matter of right. The petitioner's employment was contingent upon renewal of contract by the authority. In case extension of service has not been granted to her, she has got no legal right of continuation or permanency in the post. Eventually, in the event of non-renewal of her contract any further by the competent authority, the petitioner cannot urge violation of her legal right due to such action taken by the said authority.
- 11) The allegation of the writ petitioner that non-renewal of her contract is arbitrary, discriminatory, mala fide and illegal – appears to be baseless, as evidently the letter dated April 5, 2010 is an information simpliciter for non-renewal of contract of the petitioner anymore and does not contain any imputation of allegation or charge against her. The legal principle as relied on by the learned advocate for the petitioner is well settled and not to be doubted. But the same should not be applied in a case of non-punitive termination of service. A five Judges Bench of Supreme Court in **Parshotam Lal Dhingra versus Union of India [1957 SCC Online SC 5]** has held that any and every termination of service is not a dismissal or removal; a termination of service brought about by the exercise of a contractual

right is not per se dismissal or removal. Termination of service of the petitioner for non-renewal of contract is therefore not a dismissal in accordance with the law, which would have required compliance of the legal formalities like an enquiry or disciplinary proceeding before such termination. Her termination is by way of operation of the contractual terms and in exercise of the contractual rights of the authorities, for which there is no option open to her to challenge the same on the ground of being in violation of her legal rights.

- 12) The later part is more dramatic that the Minister appears as an angel and ignoring the adverse report of the concerned department and all law of the land as if there is none, the petitioner is engaged with the secretariat of the Minister on his written recommendation, in spite of there being no vacant sanctioned post, being remunerated from the fund meant to be used for public purpose and ultimate benefit of the society at large in the education sector. What else can be a greater example of lawlessness in the State than the manner in which the petitioner was engaged again in the secretariat of the Minister, without compliance with any legal and procedural obligations? An individual may perceive himself as above the law; nevertheless, for a civil society to function and uphold the rule of law, it must adhere to the same. Hence, this Court is constrained to find such engagement of the writ petitioner to be absolutely illegal being dehors any legal or procedural compliance. The Minister being not the appointing authority, has unauthorizedly and illegally exercised his power and official capacity to direct for appointing the petitioner in his office. This was only extraneous to his power and jurisdiction and in derogation of the high esteem of public office and public functions in which he was entrusted to. The Court's view as above is further fortified by the finding of the Supreme Court in the judgment of **Smt. Kanika Das (supra)**, where the Court has found that the order (of transfer) passed at the instance of the Minister suffers from irrelevant considerations and extraneous grounds; that the order (of transfer) was made for collateral purpose and the same is not in the exigency of the service. The Supreme Court has found the order (of transfer) as illegal on the basis of the adverse reports which according to the Supreme Court ventilates the circumstances preceding to and attendant upon the order (of transfer) only to render such order as illegal. It says that the order would not have been passed by the authority in exercise of administrative discretion independently, but for mere compulsion to act on recommendation and thus the order is infected without legality and improper exercise of power.

- 13)** Similarly, in the instant case also the order of the Minister to engage the petitioner in his office with remuneration to be disbursed from the fund meant for public good, amounts to be illegal due to improper exercise of power. But for the personal endeavor of the Minister, there would have been no occasion for the writ petitioner's appointment in the secretariat of the said Minister which is a public office and require due procedure as per law for an appointment being made therein. No procedure was ever followed in this case. The case made out by the writ petitioner that due to her reengagement in the secretariat of the Minister she should be considered to have been continued in service, is found to be based on no legal or justifiable reasons. Such argument cannot be sustained.
- 14)** Lastly, the memorandum dated April 23, 2010, which the petitioner relies on claiming herself to be within its purview, is found actually not applicable in her case, in so far as the petitioner's contract of employment has terminated on and from March 15, 2010. Beyond the said date the petitioner bears no jural relationship with the respondents, in order to claim benefits under any departmental notification published after the said date. The notification dated April 23, 2010, is not to be retrospectively applied. Hence, such argument is bereft of any merit.
- 15)** Hence, the writ petition is meritless and bound to fail. There is unexplainable favouritism seen to have been extended to the petitioner by a department of State, particularly the Minister in Charge thereof, resulting into misuse of public fund, for which the State may, if it so thinks fit and proper, by exercising its own discretion, initiate appropriate proceedings to unearth the truth and fix up the liability.
- 16)** Writ petition No. **WPA 3022 of 2013** is dismissed.
- 17)** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)