

29.07.2024
Ct. 23
D/L 1
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 11731 of 2024

**Subhajit Sarkar & Ors.
-Vs-
The State of West Bengal & Ors.**

Mr. Tanmoy Chowdhury,
Ms. Ritoprita Ghosh
... for the petitioners

Mr. Bimalendu Das,
Mr. Krishna Keshab Paul
... for the State

Affidavit of service filed in Court today is taken on
record.

The petitioners are directed to deposit the deficit
court fees within 2nd August, 2024 failing which the writ
petition shall be treated to have been filed only in
respect of petitioner no. 1.

The petitioners say that they were engaged as
whole-time pharmacists on contract basis in different
correctional home initially for a period of one year which
has been subsequently renewed from time to time
without there being any break. The petitioners say that
by a Memorandum dated 1st March, 2024, the
Additional Chief Secretary to the Government of West
Bengal, Finance (Audit) Department has declared that

where the period of engagement is five years or more from the date of initial engagement, the contractual workers engaged in various Government establishments will receive Rs. 21,000/- as monthly remuneration and Rs. 700/- as annual enhancement. The petitioners say that since they all have completed five years from their initial engagement, each of them are entitled to receive Rs. 21,000/-per month as remuneration and an annual enhancement of Rs. 700/.

On behalf of the State, it is submitted that this Court does not have the jurisdiction to receive, try and determine the issues, if any, involved in this writ petition in view of the provisions of the Administrative Tribunals Act, 1985. It is further submitted on behalf of the State that only where the initial remuneration is Rs. 17,000/- per month, next slab on completion of five years from the initial engagement is Rs. 21,000/- per month. The initial engagement, each of the petitioners were on a monthly remuneration of less than Rs, 17,000/- and as such, they cannot be placed in the next slab on completion of five years from the initial engagement and as such, the writ petition is also not maintainable on merits.

The fact remains that in the said Memorandum under Group-C to which the petitioners belong, there is no category where the remuneration on initial engagement is less than Rs. 17,000/-.

Responding to the point of jurisdiction as raised by the State, it is submitted on behalf of the petitioners that there is no validly constituted Tribunal under the 1985 Act for the employees under the State. In the absence of such validly constituted Tribunal this Court, will be the jurisdictional High Court and has the authority to receive, try and determine the writ petition.

After hearing the parties and considering the materials on record, I direct the respondent no. 2 to file a report in the form of an affidavit dealing with the main grievances of the petitioners and stating the relevant facts, which are required to be considered for adjudication of the issues raised by the petitioners.

Let such report in the form of an affidavit be filed by 28th August, 2024 with a copy to the learned advocate for the petitioners.

The petitioners shall be at liberty to use an exception, if so advised on or before the next date fixed.

Let the matter appear in the Combined Monthly list of September, 2024.

(Arindam Mukherjee, J.)