

16.02.2026
Court No.13
Item No.26
AP/sp

MAT 1763 of 2025

With

CAN 1 of 2025

With

CAN 2 of 2025

The State of West Bengal and Ors.

Vs.

Md. Mahiuddin and Anr.

Mr. Jayanta Samanta
Ms. Indumouli Banerjee

.... For the Appellant/State.

Mr. Habibur Rahaman
Mr. Md. Ali Ahasan

.... For the Private Respondent.

Re.: **CAN 1 of 2025**

1. CAN 1 of 2025 has been filed seeking condonation of delay of 33 days.
2. For the reasons stated in the application, the same is allowed. Delay in filing of the application is condoned.
3. Accordingly, CAN 1 of 2025 is allowed.

Re.: MAT 1763 of 2025

With

CAN 2 of 2025

4. The appeal is directed against an order dated 6th August, 2025 passed by a Single Bench of this Court. The Single Bench of this Court in the fifth round of litigation filed by the writ petitioner/respondent by applying dicta of the Supreme Court in the case of ***Jaggo Vs. Union of India & Ors.*** reported in ***2024 SCC OnLine SC 3826***, ***Shripal & Anr. Vs. Nagar Nigam, Ghaziabad*** reported in ***2025 INSC 144***, ***Vinod Kumar & Ors. Vs. Union of India & Ors.*** reported in ***(2024) 9***

SCC 327 held that the writ petitioner's services with the Sahapur-II Gram Panchayat under Goalpukur-II Development Block, District- Uttar Dinajpur must be regularize.

5. Admittedly, the writ petitioner was engaged on 17th September, 2007 by the Sahapur-II Gram Panchayat by issuance of a letter of appointment. The letter refers to a resolution of the Sahapur-II Gram Panchayat to engage the writ petitioner as a casual Gram Panchayat Karmee.

6. Admittedly, there were two posts of Gram Panchayat Karmee vacant in the said Gram Panchayat. The writ petitioner was engaged against one albeit on a casual basis. He has been working continuously thereat since 17th September, 2007, which was the date of his first engagement.

7. It is equally true and admitted position that the Gram Panchayat did not seek the approval of the concerned BDO before engaging the writ petitioner. The required process of advertisement, calling for sponsorship from employment exchange, fixing of eligibility criteria have not been followed in the case of engagement of the writ petitioner. Yet the petitioner was allowed to continue to work against a monthly consolidated amount of Rs.4,500/- (later increased to Rs.6,500/-). The Single Bench found that the writ petitioner's services were perennial in nature since he was continuously engaged from 2007 till 2025.

8. The Single Bench referred to the observations of the Hon'ble Supreme Court in the case of **Jaggo (*supra*)**, **Shripal & Anr. (*supra*)** and **Vinod Kumar & Ors. (*supra*)** deprecated the practice of Gram Panchayat engaging employees on casual basis even again sanctioned post for prolonged period without either following the recruitment process or regularizing the employment for such purpose.

9. In the State of West Bengal, a large number of casual employees who sought permanent employment and/or regularization, have been granted the benefit of Finance Department Memo No. 9008-F(P) dated 16th September, 2011 that was modified from time to time.

10. It is now well-settled that regularization of casual employee can be effected only pursuant to a scheme that may be propounded by State. Individual cases of casual employment as in the instant case cannot be treated as irregularity since the vital requirements of formal recruitment, namely, advertisement, interview sponsorship by employment exchange and specification of eligibility criteria have not been followed in the instant case. There are several persons who would be interested to seek employment and compete for such posts. The writ petitioner/respondent possibly stole a march over several other eligible candidates. Once the petitioner's engagement has been effected without following the rules, the same would become ex facie illegal and not

irregular. However, since the State of West Bengal has sought to follow a via-media process, i.e., instead of permanent engagement offer a fixed monthly remuneration that is revised from time to time, certain limited benefits and a lump sum payment upon reaching the age of 60, as contained in the circular dated 16.09.2011 (supra), this Court is of the view that interest of justice would be served if the writ petitioner/respondent is given the benefit of the aforesaid circular with effect from the date of filing of the last writ petition before this Court.

11. Learned counsel for the appellant/State seeks time to obtain instructions in this regard.

12. Such time is granted.

13. Having regard to the fact that this Court is still in seisin of the appeal, the impugned order shall be kept in abeyance during the pendency of the appeal.

14. List the matter on 9th March, 2026.

15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Md. Shabbar Rashidi, J.)