

**IN THE HIGH COURT AT CALCUTTA**  
[ CIRCUIT BENCH AT PORT BLAIR ]

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**WPA/74/2021**

N R Sudheer Kumar and others

Vs.

The Hon'ble Lieutenant Governor and Others

Mr. Gopala Binnu Kumar .... for the petitioners

Mr Shatadru Chakraborty

Mr. Dibesh Dwivedi ... for the respondents

April 02, 2024  
[SR]  
Item No. 20

Petitioners are aggrieved by an order dated March 13, 2020 granting regularisation to the petitioner.

Learned advocate appearing for the petitioners submits that, the petitioners were working as Daily Rated Mazdoors. Petitioners approached the writ court which such proceeding was ultimately disposed of in favour of the petitioners. He submits that, employments of the petitioners were directed to be regularized. Pursuant to such direction of the High Court, the Administration came out with the impugned order dated march 13, 2020. He submits that, the petitioners were regularized with effect from November 21, 2019 rather than from the date of their initial appointment. Petitioners were not afforded further benefits such as pensionary benefits and other benefits that a regular employee is entitled to in law.

He draws the attention of the Court to an order bearing No.298 dated December 08, 2009 passed by the Administration with regard to Home Guards. He submits that, Home Guards

were regularized from the dates of their respective initial deployment and were afforded financial benefits as enumerated in clause 3 of the terms and conditions of such order. He submits that, similar benefits should be accorded to the writ petitioners as the writ petitioners are similarly circumstanced as that of the Home Guards.

Learned advocate for the Administration submits that, the impugned order dated December 08, 2009 was passed in compliance with the order dated January 22, 2007 passed by the High Court in MAT/25/2006 and the order dated May 06, 2009 passed by the Supreme Court in SLP(C)/10496/2007. Learned advocate for the Administration submits that, the impugned order dated March 13, 2020 was passed in consonance with the order No.1115 dated June 22, 2021 of the Finance Ministry.

The writ petitioners before this Court were working as Group-D staff on daily rates. They approached the High Court by way of a writ petition for regularisation which ultimately was disposed of by the Division Bench by a judgment and order dated August 27, 2019. The Administration acting in terms of the such judgment and order, passed the impugned order dated March 13, 2020.

By such impugned order, the Administration appointed the writ petitioner on supernumerary post of workman with effect from November 21, 2019. The impugned order does not provide any other financial benefits to the writ petitioner.

There is an order dated December 08, 2009 of the Administration relating to Home Guards. There, the Administration directed regularisation of the Home Guards in the supernumerary posts in the lowest Group D Grade from the date of their respective initial date of deployment in the Andaman and Nicobar Home Guard Organisation.

Clause 3 of the terms and conditions of the order dated December 08, 2009 grants them certain financial benefits such as allowances, House Rent Allowances as applicable to the employees of the similar categories under the Andaman and Nicobar Administration.

To my mind, the writ petitioners before this Court are similarly situated and circumstanced as that of the Home Guards, whose services were regularized by an order dated December 08, 2009 passed by the Administration. Administration is not entitled to discriminate between similarly situated and circumstanced workmen. Petitioners before this Court were also working as Daily Rated Mazdoors such as the Home Guards, whose services were regularized by the order dated December 08, 2009.

The orders of the High Court or Supreme Court governing the parties herein do not prohibit or impede grant of benefits as extended to the Home Guards by the Administration. Benefits to the Home Guards were extended by the Administration subsequent to that order dated June 22, 2021.

Similar benefits as extended to the Home Guards should be granted to the petitioners before this Court by the

Administration. Both the petitioners before this Court and the Home Guards are under the Administration. The Administration cannot discriminate between two Group D employees.

In such circumstance, the Administration will modify the impugned order dated March 13, 2020 to make it in tune with the order No.298 dated December 08, 2009 governing the Home Guards. In particular, the Administration will regularize the appointments of the writ petitioners from the date of their respective appointments as Daily Rated Mazdors. The Administration will also extend the benefits of clause 3 of the terms and conditions of the order dated December 08, 2009 to the writ petitioners.

The Administration will undertake such exercise within a period of four weeks from the date of communication of this order.

WPA/74/2021 is disposed of without any order as to costs.

**( Debansu Basak, J. )**