

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

[CIRCUIT BENCH AT PORT BLAIR]

PRESENT: THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
And
THE HON'BLE JUSTICE SMITA DAS DE

WP.CT/5/2026

SHRI ALOK DAS ... *PETITIONER*

Versus

THE UNION OF INDIA AND OTHERS ... *RESPONDENTS*

For the Petitioner : Mr. Arul Prasanth

For the respondents : Mr. Rakesh Kumar

Heard on : April 13, 2026

Judgment on : April 13, 2026

SABYASACHI BHATTACHARYYA, J.

1. The present challenge has been preferred against a decision taken by the learned Tribunal whereby the termination of the petitioner's service, on the ground that he was ineligible at the inception, was upheld.

2. Learned counsel appearing for the petitioner contents that in terms of Clause 3 (v) of the Vacancy Notice dated December 7, 2023, in order to be eligible for the benefit given to the petitioner, who was brought into the cadre of GTT (Graduate Trained Teacher) from that of MTS (Multi-Tasking Staff), a candidate had to have "Government service with minimum three years' continuous service in the department".

Since the petitioner was in continuous service in the department under the category MTS, it is contented that the petitioner could not have been held to be ineligible on the basis of subsequent orders/circulars issued by the authorities.

3. Learned counsel for the petitioner next places reliance on Clause 3 (iv) which provides that age relaxation is also admissible to the candidates who are covered under the A&N Administration's Circular No.45/1998-PW dated September 19, 2011, where it was categorically mentioned that in case of DRMs/Ad hoc/Contractual workers, the total period spent in each of the departments of the Administration shall be counted irrespective of the department where they are applying for regular appointment, provided the post is general in nature and it does not require any specific technical qualification.

4. Learned counsel for the petitioner further argues that upon mere issuance of a show cause, to which a reply was given by the petitioner, but without undertaking any departmental inquiry, the petitioner was dismissed unceremoniously, which is in stark contravention of the principles of natural justice.

5. Learned counsel appearing for the respondent authorities contends that the learned Tribunal was justified in upholding the termination, since the nature of the termination was such that it was not based on any allegation of serious misconduct on the part of the writ petitioner, which could have cast a stigma on the petitioner. Thus, no departmental inquiry was required to precede such termination, as the petitioner was held to be ineligible for the post where he was upgraded,

at the inception. In support of such contention, learned counsel cites **The State of Punjab and others vs. Jaswant Singh**, reported at **2023 Livelaw (SC 761 [2023 INSC 798])**, where the Hon'ble Supreme Court, *inter alia*, held that since the termination was not considered to be punitive in nature, no prior inquiry or assessment was required to be held and there was no violation of principles of natural justice.

6. Next arguing on the merits, learned counsel for the respondent-authorities contends that the petitioner was governed by and applied under Clause 3 (ii) of the Vacancy Notice dated December 7, 2023, which categorically stipulates that the upper age limit of 30 years is relaxable for Government servants up to 5 years in accordance with the instruction/orders issued by the Central Government from time to time, provided that the Government servant should have rendered minimum three years' continuous service in the cadre. By laying stress on the expression "in the cadre", learned counsel further places reliance on a Press Release dated June 7, 2023 issued by the A&N Administration, which was existent at the time of issuance of the Vacancy Notice, in terms of which the extent of age concession was enumerated to be five years (for the posts which are in the same line or allied cadres and where a relationship could be established that the service already rendered in a particular post will be useful for the efficient discharge of the duties of posts).

7. It is contended that when there were complaints regarding the appointment of the present petitioner and certain other candidates in the category concerned, a special Expert Committee was appointed,

which ultimately took a decision that such appointments were irregular, since the respective candidates were ineligible for such promotion at the outset.

8. Learned counsel also seeks to place reliance on Order No. 2160 dated October 25, 2024, by which the Expert Committee was formed, and the subsequent minutes of the decision taken by the committee in that regard.

9. Learned counsel also places reliance on an Office Memorandum dated May 19, 1993 in support of his contentions.

10. In reply, learned counsel for the petitioner submits that the Administration could not blow hot and cold in the same breath, having categorically provided relaxation for candidates under Clause 3, sub clauses (iv) and (v) and thereafter withdrawing the same by subsequent decisions.

11. Learned counsel further argues that the Press Release dated June 7, 2023 only pertains to the Group A and Group B posts which are filled through the UPSC, and does not apply to the present petitioner.

12. Upon carefully considering the arguments of the parties, this Court is of the opinion that the arguments made by the writ petitioner are not tenable.

13. In respect of the first contention of the petitioner, that the absence of any prior disciplinary proceeding vitiates the termination, the same cannot hold ground, since, as rightly contended by the respondents, the dismissal was merely a recall of the appointment given

to the petitioner on the ground of ineligibility and did not have with it associated any stigma or allegation of serious misconduct.

14. In any event, a show cause notice was issued and upon taking note of the reply given by the petitioner thereto, the impugned decision was taken. Thus, it cannot be said that the principles of natural justice, in particular *audi alteram partem*, was not adhered to by the respondent-authorities. It is well-settled that the principle of *audi alteram partem* cannot be taken to such extreme extent that the functioning of the Administration will be paralyzed.

15. Insofar as the interpretation of the Vacancy Notice is concerned, we find substance in the contention of the respondents that since the petitioner is neither a candidate under the reserved categories, nor was covered by sub clause (iv) of the Clause 3 of the Vacancy Notice, the provisions of the Circular dated September 19, 2011 do not apply. We say so because the petitioner was admittedly in regular service under the category MTS and cannot be termed as “DRM/Ad hoc/Contractual worker”, which is a necessary pre-requisite to be governed by the Circular dated September 19, 2011.

16. Even otherwise, since the petitioner applied under Clause 3 (ii) of the Vacancy Notice, it is the terms of the said sub-clause which are to be looked into. As per the same, three years’ continuous service was required not in general but in a particular cadre.

17. The expression “in the cadre” has been further explained in the Press Release dated June 7, 2023, which was already in force on the date of issuance of the Vacancy Notice.

18. Contrary to the arguments of the petitioner, we find in the second column of the said Press Release that the same covers not only Group A and Group B posts filled through the UPSC but also posts which are exempted from the purview of UPSC (where recruitment is made by organizations themselves).

19. Since the petitioner comes squarely within the second limb of the second column of the Press Release, the third column also applies, which categorically explains that the five years' relaxation is applicable only for those who are "in the same line or allied cadre and where a relationship could be established that the service already rendered in a particular post will be useful for the efficient discharge of the duties of the post". We find from the minutes of the Expert Committee deliberations that the respective nature of job description of Multi-Tasking Staff (MTS) and Graduate Trained Teachers (GTT) have been categorically delineated.

20. From the same, it is palpably found that the nature of the two jobs are completely different and as such, taking into consideration the Press Release dated June 7, 2023 in conjunction with the Vacancy Notice in question, there cannot be any manner of doubt that the petitioner was not eligible for the post of GTT, having not been in continuous service in the same cadre for three years, having a nexus with the post to which he was subsequently appointed.

21. We find corroboration of the above logic in the reasoning given by the Expert Committee in Order No. 291 dated February 13, 2025 which reads as follows :-

“The nature of job, duties and responsibilities of a Patwari Regular Mazdoor and Multi-Tasking Staff (MTS) are completely different from the job description of a Graduate Trained Teacher (GTT), Work responsibility of Patwari, Regular Mazdoor and Multi-Tasking Staff (MTS) do not match the duties in the capacity of Graduate Trained Teacher in the Department of Education”.

22. Even otherwise, since one of the plausible views has been taken by the learned Tribunal, it is not for this Court, sitting in supervisory jurisdiction, to arrogate itself to an appellate authority and substitute its own views for that of the Tribunal.

23. In such view of the matter, we do not find any irregularity or illegality in the impugned judgement.

24. Accordingly, WP.CT/5/2026 is dismissed on contest, thereby affirming the impugned judgement dated March 24, 2025 passed by the Kolkata Bench (Circuit sitting at Port Blair), Central Administrative Tribunal in OA No. 351/00270/2025/AN.

25. There will be no order as to costs.

26. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

I agree.

(SMITA DAS DE, J.)