



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

WP.CT/45/2025

The Lieutenant Governor and others

Vs.

Dr. Dev Singh and others

Mr. Rakesh Kumar .. for the petitioners

Mr. P. C. Das
Mr. C. M. Jha .. for the respondents
[through virtual mode]

November 3, 2025
[SR]
Item No.3

Upon considering the impugned order before us we, *prima facie*, find that the learned Tribunal misguided itself in the following manner;

(a) A decision passed by the Tribunal in OA/351/60/2016 dated June 16, 2016 in respect of the respondents who were engaged on contractual basis in the Andaman College was not considered. The relevant portion of the order is quoted below:

“Heard ld.Counsel for the parties.

2. Respondents are going to engage a complete new set of employees by way of a fresh advertisement which is under challenge in the present application, by replacing one set of contractual employees, which they cannot do in terms of para 46 of *State of Haryana vs. Piara Singh [(1992)21 ATC 403]*. We also note that in OA38/15 the decision cited today, the applicants were allowed to continue in the post they were continuing till the posts in question were filled up on regular basis and the OA was disposed of with a direction upon the respondents to continue such applicants.

3. Therefore the respondents are directed to follow the order passed in OA 38/15.



4. The OA is accordingly disposed of. No order is passed as to costs.

5. The order is passed with the consent of both the parties.”

- (b) The respondents had approached the Tribunal challenging an attempt at further appointment in the Andaman College and the learned Tribunal had specifically stated that the decision in OA/351/38/2015 shall govern the services of the respondents who were engaged on contractual basis in the Andaman College. The relevant paragraph in OA/351/38/2015, which was made applicable is quoted below:-

“We could see considerable force in the submission of the ld.Counsel for the applicants. The order dated 21.08.2014 of the CAT Bangalore Bench is striking a balance between the conflicting claims of both sides and as such adhering to the said precedent, we direct the respondent authority concerned to engage the applicants by fresh contractual engagement purely on temporary basis; in case the respondents have sufficient ground not to consider any one for such contractual engagement, they shall pass a specific order specifying the ground on which fresh engagement has not been considered in that particular case. However, we also make it clear that by directing the respondents to consider engagement of the applicants on contractual basis, we are not conferring any right on the applicants for any regular engagement in such posts which has to be done by the Staff Selection Commission following the prescribed Recruitment Rules. The respondents are also free to engage additional persons from the applications received in response to the advertisement.”

The orders clearly indicate that the continuation of the respondents as contractual employees were limited to



appointment on regular basis by regular recruitment process.

- (c) The contractual engagement was not against sanctioned posts.
- (d) The contractual engagement was made in 2015 and the posts were sanctioned in the year 2021.
- (e) The analogy drawn from the order passed in OA/59/1996 is misplaced, in view of distinguishing facts.
- (f) The decisions of the Hon'ble Apex Court relied upon are also distinguishable.
- (g) The exception in para 53 of the decision in State of Karnataka vs. *Uma Devi and others* (2006) 4 SCC 1, in our *prima facie* view does not apply.

The learned Tribunal also misguided itself by not taking into consideration the terms and conditions of the engagement of the respondents and wrongly directed the Union Public Service Commission (UPSC) to decide the issue of regularisation.

Let affidavit-in-opposition be filed by the respondent nos.1 to 7 within four weeks from date. Reply thereto, if any be filed within two weeks thereafter.

Parties are at liberty to file their written notes of arguments.

Let WP.CT/45/2025 be finally heard on 19th December 2025 after exchange of affidavit.



It is informed that the contractual appointments have come to an end and regular appointments have been made from the selected candidates.

The order impugned dated September 01, 2025 passed in OA/351/01010/2025 is stayed till the disposal of this application.

(Shampa Sarkar, J.)

(Ananya Bandyopadhyay, J.)