

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA No. 24866 of 2025

Somnath Giri & Ors.

Versus

The Union of India & Ors.

For the Petitioners	: Ms. Reshmi Ghosh, Adv. Ms. Parna Mukherjee, Adv.
For the Respondent Nos. 3 to 7:	Mr. Kishore Dutta Sr. Adv. Mr. Sirsanya Bandopadhyay, Adv. Mr. Nikhil Jhunjhunwala, Adv. Mr. Sachin Shukla, Adv.
For the Union of India	: Mr. Rajendra Banerjee Mr. Rahul Sarkar Mr. Souvik Ganguly
Heard on	: 06.08.2026
Judgment on	: 17.09.2026
Uploaded on	: 17.09.2026

WPA No. 24866 of 2025

Ajay Kumar Gupta, J.:

1. The writ petitioners have filed this instant writ petition seeking, inter alia, a direction in the nature of mandamus commanding the respondents and/or their men, agents and assigns, to forthwith and/or immediately regularise the service of the petitioners as Dock Pilots in Shyama Prasad Mookherjee Port, Haldia Dock Complex in accordance with law, together with other consequential reliefs based on the following facts as under:
 - a. Petitioner No. 1 was initially engaged as Dock Pilot on an ad hoc basis under Marine Operations Division of Haldia Dock Complex, Kolkata Port Trust for a period of 3 years on a contract by a letter dated 23rd February 2012 issued by the respondent Nos. 5; Petitioners No. 2 and 3 were similarly engaged by letters dated 29th May 2014.
 - b. All the Petitioners were certified competent to pilot vessels inside Haldia Docks by Marine Department certificates dated 23rd July 2013 for Petitioner 1; 3rd August 2015 for Petitioners 2 and 3. Petitioners 2 and 3 were examined and found suitable by the Board of Examiners (August 2014); upgraded as Dock Pilot (on contract) with increased pay.

- c.** The Petitioners were paid a fixed consolidated remuneration and are entitled to other service benefits, which included accommodation, reimbursement, leave, medical facilities and are entitle to TA/DA as applicable to regular incumbents in the post of Dock Pilots.
- d.** Petitioner No. 1's contract was renewed in 2015 and periodically thereafter, most recently extended to 31st March 2028 vide Memo dated 25th March 2025. Petitioner No. 2's contract was extended in stages (2017, 2018, 2020, 2022), finally to 31st March 2028 vide Memo dated 25th March 2025. Petitioner No. 3's contract was similarly extended from time to time and finally to 31st March 2028 from 1st April 2025 vide Office Memo dated 25th March 2025. They eventually assumed charge as Berthing Pilots.
- e.** The Petitioners made applications dated 15th and 27th November 2017 seeking regularisation/permanent employment as Dock Pilot.
- f.** Despite being appointed as Dock Pilot, the Kolkata Port Trust by an office Memo No. P & IR/13/4/2020/3035 dated 14th January, 2020 re-designated the Assistant Manager (Berthing)/Dock Pilot on contract under MO Division, The Deputy Chairman has approved the re-designation of Contractual officers engaged in the berthing service of Haldia Dock Complex as “Berthing Pilot”, keeping all

other terms and conditions of their contractual engagement same. Accordingly, the Petitioners along with others were re-designated as Berthing Pilots.

- g.** The Petitioners made further fresh applications dated 5th March 2020 to Respondent No. 4 seeking regularisation against existing vacancies, and representations dated 8th February 2024 and 23rd December 2024. Their latest representation was dated 10th October 2025, following the 2025 advertisement. The petitioners have come across advertisement No. DR/25/17 dated 24th September, 2025, whereby the Shyama Prasad Mookerjee Port, Kolkata, Haldia Dock Complex published an advertisement for direct recruitment of apprentice Dock Pilot under Marine Operation Division, Haldia Dock Complex. Three Vacancies were published.
- h.** The petitioners are aggrieved that despite repeated extensions of their contractual engagement up to 2028 and representations seeking regularisation, their services have not been absorbed against existing permanent vacancies, even though their appointments were made under unavoidable circumstances in compliance with the KoPT Rules, 2013, which mandates replacement of ad-hoc appointments with regular appointments as soon as possible. The petitioners challenge the inaction of the

authorities in regularising their services and seeking absorption as Dock Pilots in view of their long, satisfactory and without break service.

2. Learned counsels representing the petitioners submitted that all the petitioners have been working as Dock Pilots since 2012 and 2014 and their service has been extended from time to time and finally extended till 2028 with satisfaction. There is no adverse report against any one of them. All the three petitioners had completed their training period of one year as provided, and accordingly, certificates dated 23rd July, 2013 and 3rd August, 2015 respectively, were issued by the then Kolkata Port Trust, Director, Marine Department's Office, certifying that they are competent to Pilot Vessels inside the Haldia Docks in the capacity of Dock Pilot.
3. It was further submitted that the petitioner No. 1 was recommended for examination on 22nd May, 2013 and he qualified as Dock Pilot on 23rd July, 2013. Whereas Petitioner Nos. 2 and 3 were recommended for examination by the Board of Examiners on 23rd July, 2014, and their examination was held on 3rd August, 2024, and both were found suitable to be qualified as Dock Pilots. Accordingly, they were upgraded as Dock Pilots on a contractual basis, and their pay and allowances were increased.

4. Learned counsel further submitted that several representations were made by the petitioners from 2017 after completion of initially 5 years of service as Dock Pilots, against a permanent vacancy in future in Dock Pilot service by extending age relaxation and priority to the petitioners, considering their service already rendered as Dock Pilot with no adverse report; rather, higher officials had appreciated their performance.
5. It was further submitted that all the petitioners possessed the required qualification, i.e., B.Sc. Nautical Science degree at the time of their initial engagement, which was already more than the qualifications possessed by those recruited prior to them. They have rendered uninterrupted services, and such duties were neither occasional nor project-based, but permanent and integral to the daily functioning of the respondent authorities, and they are performing the duty of Dock Pilots appointed against regular vacancy. They also completed the one-year training and have been working for almost 13 to 14 years. Further, Petitioner Nos. 1 and 3 were awarded certificates of appreciation for “Outstanding Performance” in 2025 and 2023, respectively. It is not the case that petitioners entered into the service via back door entry. All the petitioners’ appointments were pursuant to an advertisement for recruitment of Dock Pilots on an ad

hoc basis published for the years 2012 and 2014 on an ad hoc contractual basis, but they were appointed following the due process of recruitment. Their appointment was on a sanctioned post.

6. Learned counsel further submits that during their service tenure, the authorities have, on two occasions, published advertisements for the recruitment of three apprentice Dock Pilots to regular posts. The first advertisement, i.e., DR/25/17 dated 24th September, 2025 which was either withdrawn or not given effect to. Subsequently, during the pendency of the instant application, the second advertisement, being DR/2026/06 dated 27th February, 2026, was issued.
7. Learned counsel has further argued that the duties of both ad-hoc and permanent dock pilots are the same. Their primary duty includes assisting in safe berthing, unberthing, shifting of vessels within the dock complex and ensuring navigational safety and efficient traffic management.
8. Reliance is placed on the Rules of 2013, which provide that an ad-hoc appointment may be made in unavoidable circumstances, and such temporary appointment should be replaced with a regular appointment at the earliest. The Petitioners have, however, continued to work on an ad-hoc basis since 2012 and 2014, till date.

9. It was further submitted that the Petitioners have been utilised in the capacity of regular Dock Pilots while being paid much less. While regular Dock Pilots were initially paid Rs. 150000/- and now Rs. 200000/-, the Petitioners were initially paid Rs. 35000/- and are now paid Rs. 83100/-.
10. Counsel for the Petitioners has relied upon the following decisions to bolster her submissions that the prayer of the petitioners is based on their legal recruitment, training, and performance for a long period on sanctioned post: -

i. Official Liquidator v. Dayanand¹;

ii. Jaggo v. Union of India²;

iii. Bhola Nath v. State of Jharkhand³;

iv. Dharam Singh v. State of U.P.⁴;

v. Pawan Kumar v. Union of India;

vi. Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi⁵.

11. It was contended that the Petitioners play a pivotal role at the Haldia Dock Complex, and without them, the entire business would have collapsed. They work round the clock, which consequently generates
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¹(2008) 10 SCC 1

²2024 SCC OnLine 3826

³2026 SCC OnLine SC 129

⁴2025 SCC OnLine SC 1735

⁵(2025) 3 SCC 95

huge revenue for the Haldia Dock, and thus their services are not only crucial but unavoidable even for a day. Therefore, they are entitled to regularization.

12. Mr. Dutta, Sr. Advocate representing the Respondent Nos. 3 to 7 vehemently opposed the prayer of the petitioners and further submitted that there was an embargo against regular appointment for 15 years, and when the authorities lifted the embargo, an advertisement being no. DR/25/17, dated 24th September, 2025 was issued for the recruitment of Apprentice Dock Pilots, but none of the candidates applied for the said posts; as such, it was cancelled, and a fresh advertisement was issued being DR/2026/06 dated 2nd February, 2026.
13. It was submitted on behalf of the Respondents that the petitioners were never engaged as departmental or regular Dock Pilots. Regular Dock Pilots are recruited only through a structured selection process followed by one year's training and a qualifying examination under the Kolkata Port Trust (Recruitment, Seniority and Promotion) Regulations, 2013. The petitioners, by contrast, were engaged purely on contract, to perform the operational duty of pilotage of vessels within the Haldia Dock Complex, occasioned by an embargo imposed by the Ministry of Shipping on direct recruitment of departmental

officers for over 15 years, which necessitated engaging contractual officers to keep the Dock functioning.

14. It was further submitted that the petitioners were contractually engaged only for operational duties; administrative work, which is an essential responsibility of a regular Dock Pilot, was never assigned to them. This distinction in role is precisely why contractually engaged Dock/Berthing Pilots have been given a separate nomenclature and ranking from departmental Dock Pilots, and their duties, though overlapping operationally to an extent, are not identical to those of the departmental cadre.
15. Each engagement expressly provided that persons appointed on contract acquire no right to any post. It is for a fixed tenure terminable by one month's notice from either side (subject to an undertaking to serve at least two years after the one-year training), and at a fixed consolidated remuneration. The petitioners accepted these terms of their own volition on each occasion and rendered service accordingly; it was never obligatory on them to accept or continue under the contractual offers.
16. It is specifically denied that the petitioners' contractual engagement was "extended" or "renewed" from time to time. Each engagement, it is submitted, was a fresh contract offered according to the

Respondents' operational requirement and separately accepted by the petitioners, as borne out by the engagement letters themselves — which also show that the petitioners' role progressed from "contractual Dock Pilots" to "contractual Berthing Pilots," the current engagement running from 25.03.2025 to 31.03.2028 and governed by its own distinct terms and conditions.

17. Learned counsel further submitted that the Kolkata Port Trust (Recruitment, Seniority and Promotion) Regulations, 2013, including the ad-hoc appointment provision under Regulation 28, apply only to departmental/regular employees and have no application to contractual engagements such as the petitioners. The petitioners' reliance on these Regulations, and their characterisation of their engagement as being against a sanctioned vacant post, is misconceived; their service, was never rendered against any sanctioned vacant post of Dock Pilot or any specific CPSE pay scale, but was purely contractual, for a fixed tenure and fixed consolidated remuneration on agreed terms.
18. It was further contended that since the terms of engagement of contractual Berthing/Dock Pilots and departmental Dock Pilots are materially different, no claim of equal treatment can be founded merely on some overlap in operational function. Whether the

petitioners hold higher qualifications than their contractual predecessors are immaterial; what is relevant is only whether they meet the eligibility prescribed in the impugned advertisement dated 24.09.2025 (2nd Mate FG Certificate or B.Sc. Nautical Science with 60% marks), a comparison between this qualification and departmental eligibility criteria being impermissible given the wholly distinct terms of engagement.

19. Continuous engagement over several years, occasioned by the Respondents' operational needs and the petitioners' own willingness to accept successive contracts, does not confer any right to regularisation or to have the impugned recruitment held in abeyance. A license or qualification, it is submitted, cannot be treated as a precondition to regularisation, and the mere fact that vacancies may have existed since 2012/2014 does not, without more, entitle the petitioners to be absorbed against them. Learned counsel has submitted, that the current advertisement is for recruitment of apprentice Dock Pilots by a regular, transparent selection process pursuant to specific approval of the Ministry of Shipping, Port and Waterways, and does not encroach upon any vested right of the petitioners.

- 20.** Finally, it was submitted that the petitioners presently serve as contractual Berthing Pilots on a consolidated monthly remuneration of ₹83,100/-, plus operational allowances (₹89,093/- drawn for September 2025), governed entirely by the terms of their current contract expiring 31.03.2028, terms which they accepted and by which they continue to be bound.
- 21.** Counsel for the Respondents has relied upon the following decisions in support of his arguments: -
- i. Babu Parasu Kaikadi v. Babu*⁶;
 - ii. Medley Pharmaceuticals Ltd. v. Commissioner of Central Excise and Customs, Daman*⁷;
 - iii. Ranjit Kumar Neog v. Union of India*⁸;
 - iv. Ram Pravesh Singh v. State of Bihar*⁹.
- 22.** For the foregoing reasons, it was submitted that the petitioners have failed to establish any legal right to regularisation, to parity with departmental Dock Pilots, or to interdict the impugned advertisement, and the writ petition is accordingly liable to be dismissed with exemplary costs.

⁶(2004) 1 SCC 681

⁷(2011) 2 SCC 601

⁸Case no. (C)/4595/2020 dated 18th March, 2025

⁹(2006) 8 SCC 381

- 23.** Learned counsel for the Union of India submitted in a similar fashion as counsels for respondent nos. 3 to 7, and finally supported the submission of the learned senior counsel Mr. Kishore Dutta.
- 24.** Having heard the counsels for the parties and having gone through the record, the issue that has come for determination before this Court is whether the petitioners, admittedly engaged on a contractual/ ad-hoc basis as Dock Pilots through the advertisement and following recruitment process under the rules on the vacant vacancy of Dock Pilot, are entitled to regularisation?
- 25.** It is an admitted fact that the petitioners' initial engagement in 2012 and 2014 was contractual in nature, as described in the engagement letters themselves as an ad-hoc arrangement for a period of three years (inclusive of a one-year training period), terminable automatically on expiry, subject to renewal by a fresh contract at the option of the Kolkata Port Trust, and further terminable by either side on one month's notice.
- 26.** This position is reiterated, rather than disputed, in the Affidavit-in-Opposition filed on behalf of Respondent Nos. 3 to 7. It explains that the petitioners' ad hoc engagement was necessitated by an embargo of approximately 15 years imposed by the Ministry of Shipping, Government of India, on the direct recruitment of departmental

officers and staff. This further indicates that the petitioners were engaged as a stop-gap arrangement to perform the operational duties of pilotage until such embargo was lifted.

- 27.** It is significant that, notwithstanding the length and continuity of their service, a facet strongly emphasized by the petitioners, the case as originally pleaded in the writ petition contains no averment that the petitioners were, at any point, appointed against a sanctioned or existing vacancy of Dock Pilot. The assertion to that effect appears to have been introduced for the first time in paragraph 26 of the Affidavit-in-Reply, where it is claimed that the petitioners were "continuously discharging their duties being operational and administrative jobs similar to that of the Dock Pilots appointed as against sanctioned post." This averment, however, is unsupported by any contemporaneous record, service book entry, sanction order, or otherwise, placed before this Court, and therefore cannot be accepted as displacing the admitted contractual character of the engagement borne out by the petitioners' own annexures.
- 28.** The respondents have also drawn a distinction, which this Court finds relevant, between the mode of selection, training, and functions of regular/departmental Dock Pilots on the one hand, and the petitioners on the other. Regular Dock Pilots are appointed strictly in

terms of the Kolkata Port Trust Employees' (Recruitment, Seniority and Promotion) Regulations, 2013, through a structured process of selection, a year of training as trainee/apprentice, a qualifying examination, and only thereafter deployed for operational pilotage duty, and are additionally required to discharge certain administrative functions apart from operational duties. The petitioners, by contrast, were engaged to discharge purely operational duties, a fact which, as pointed out by the respondents, finds an echo in the petitioners' own representation dated 5th March 2020.

- 29.** While the petitioners contend that the certificate/licence issued to them by the Director, Marine Department, is identical to that issued to regular Dock Pilots and therefore establishes parity of function, this Court is of the view that possession of an operating licence, i.e., a professional/technical competency certification necessary for anyone piloting vessels within the dock, whether engaged on contract or otherwise, cannot, by itself, be equated with parity of service conditions, mode of recruitment, or entitlement to the post.
- 30.** The law on regularisation of temporary, ad-hoc, or contractual employees has been authoritatively laid down by the Hon'ble Supreme Court, and it is necessary to advert to the binding

precedents cited in the instant case, particularly given that they point in different directions and require reconciliation.

31. The petitioners have placed reliance upon ***Bhola Nath v. State of Jharkhand & Ors. (Supra)***, in support of their claim for regularisation. The respondents, however, submit that this case is factually distinguishable, since the petitioners therein were appointed against vacant and sanctioned posts, and were, upon joining, subjected to transfer, posting, and other service incidents ordinarily applicable to regular employees, none of which features, the respondents contend, are present in the case at hand.
32. The respondents further submit that ***Bhola Nath (Supra)***, being a two-Judge decision, failed to notice the earlier three-Judge decision in ***Dayanand (Supra)***, and ought therefore to be treated as rendered *per incuriam*, relying in this regard upon ***Babu Parasu Kaikadi (Supra)*** and ***Medley Pharmaceuticals (Supra)*** at paragraph 43 on the doctrine of *per incuriam*, and upon ***Bajaj Allianz General Insurance Co. Ltd. (Supra)*** at paragraphs 161 and 165, on the scope of that doctrine.
33. There is considerable force in the respondents' submission on this score. It is a well-settled principle of judicial discipline that a decision of a smaller Bench must yield to, and cannot depart from, the ratio of

a larger Bench without appropriate reference; and a decision rendered in ignorance of a binding precedent of a larger or coordinate Bench is liable to be treated as per incuriam to that extent. **Dayanand (Supra)**, being a three-Judge Bench decision, considered, as noticed at paragraphs 2, 3(i), 3(iii), 4, 5, 49, 50 and 116 thereof, the constitutional dimension of regularisation and absorption of contractual/ad-hoc employees through the lens of Articles 14 and 16 of the Constitution and the rule-making power under the proviso to Article 309, and held that a direction for absorption of employees not appointed in accordance with the prescribed procedure would be detrimental to public interest, both by compelling the executive to abandon a considered policy decision and by resulting in a virtual abrogation of statutory recruitment rules. If, as the respondents submit, **Bhola Nath (Supra)** did not have the benefit of considering **Dayanand (Supra)** on this very issue of regularisation/absorption of contractual employees, the persuasive value of **Bhola Nath (Supra)** before this Court stands correspondingly diminished. Consequently, there should be an inclination to proceed on the touchstone of the principles enunciated in **Dayanand (Supra)**.

34. **Dayanand (Supra)**, at paragraph 113, has in turn relied upon **Ram Pravesh Singh (Supra)**, for the proposition that legitimate

expectation is not, in itself, a legal right. However, mere expectation of a benefit, relief, or remedy that may ordinarily flow from a promise or an established practice, does not, without more, translate into an enforceable right to regularisation, more particularly in the case of contractual engagements. This principle applies with equal force to the facts at hand, where the petitioners' engagement letters themselves recorded, in specific terms, the ad-hoc and time-bound character of the appointment, coupled with an express reservation to the Kolkata Port Trust of the right to enter into a fresh contract, as opposed to an automatic extension or renewal on expiry of each term.

- 35.** There is also merit in the distinction drawn by the respondents between the present case and the decisions of ***Jaggo v. Union of India (Supra)*** and ***Ranjit Kumar Neog v. Union of India (Supra)***, relied upon by the petitioners, since the initial engagement of the employees in those cases was on a part-time, ad-hoc basis and not contractual in nature, which is a material distinction from the case in hand, where the petitioners' own engagement letters describe their appointment as "Contractual Agreement." Similarly, ***Dharam Singh v. State of U.P. (Supra)***, is distinguishable on facts, the controversy therein having centred upon non-sanctioning of Group C and Group D ministerial/support posts by the State Government, a context

materially different both in the nature of the duties performed and in the issue that fell for consideration before the Hon'ble Supreme Court, as opposed to the question of absorption in posts of a more specialised/technical character, as considered in ***Dayanand (Supra)***.

36. Applying the above principles, it is found that the petitioners' claim for regularisation cannot rest merely on the length or continuity of their contractual engagement. It is by now well established that mere prolonged or continuous service, howsoever long, does not by itself ripen into a right to permanence or substantive status; regularisation cannot be treated as an independent mode of appointment or recruitment de hors the prescribed Recruitment Rules, and its office is confined to the condonation of procedural irregularities in an appointment otherwise validly made, not to the creation of a right where none otherwise exists under the Rules governing recruitment.
37. The petitioners' engagement, on the record as it stands, was not made pursuant to, or against, any sanctioned vacancy of Dock Pilots. It was occasioned by a distinct and time-bound administrative necessity, and was consistently treated, extended, and re-designated (culminating in re-designation as "Berthing Pilot", and continuation in that capacity thereafter) as a contractual arrangement, and not as an appointment against the regular cadre strength of Dock Pilots.

- 38.** In these circumstances, the parity sought to be drawn by the petitioners with regular Dock Pilots on the strength of the identity of the pilotage licence issued by the Marine Department, and the nature of operational duties performed does not suffice to establish an entitlement to regularisation, particularly where the very Recruitment Regulations of 2013 relied upon by both sides contemplate a structured process of direct recruitment, examination, and training for entry into the regular cadre, a process distinct from, and not fulfilled by, the petitioners' mode of ad-hoc contractual engagement.
- 39.** In light of the above discussion, this writ petition being **WPA 24866 of 2025** is, thus, **dismissed** without any order as to costs. Connected applications, if any, stand disposed of.
- 40.** However, relying on the aforesaid facts, i.e., the tenure of the petitioners' consistent service, training, their qualification, performance, appreciation received by them from the authorities and age, this Court is of the view that, even though they may not be entitled to regularization straight away, they may be considered for the selection process. Therefore, on humanitarian grounds, the Respondent authorities are directed to consider the Petitioners for the selection process for regular posts for Dock Pilots, as and when a vacancy for the same arises in accordance with law.

- 41.** Interim order, if any, stands vacated.
- 42.** All parties shall act on a server copy of this judgment uploaded from the official website of High Court at Calcutta.
- 43.** Urgent photostat certified copy of this judgment, if applied for, is to be given to the parties on priority basis on compliance of all legal formalities.

(Ajay Kumar Gupta, J.)

(P.A)