

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – OA 669 of 2019

Bikash Das & Others vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
03 25.11.2019	<p>For the Applicants : Mr. R.M. Roy, Mrs. S. Dey, Learned Advocates.</p> <p>For the Respondent : None.</p> <p>Affidavit of service filed on behalf of the applicants today is kept on record.</p> <p>The applicants have prayed for direction upon the respondents for granting them financial benefit in terms of the Memorandum dated September 16, 2011 and other Memorandums issued in this regard by the Finance Department, Audit Branch, Government of West Bengal after setting aside the reasoned order passed by the Additional Chief Secretary to the Government of West Bengal, Department of Health and Family Welfare on December 29, 2015.</p> <p>The contention of the applicants is that the applicants have been engaged as full time casual employees in the establishment of the respondent no. 3, Chief Medical Officer of Health (in short, CMOH), Birbhum on different dates during the period from January 7, 2005 to September 1, 2010. Previously, the applicants approached this Tribunal by filing OA No. 868 of 2015 which was disposed of on September 11, 2015 by giving direction to the Principal Secretary to the Government of West Bengal, Department of Health & Family Welfare to take a decision in respect of the prayer of the applicants on the basis of</p>	

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the representation submitted by them. Subsequently, the applicants again moved the Tribunal by filing OA 234 of 2019 which was dismissed on July 22, 2019 on the ground of principles of res judicata, but liberty was given to the applicants to challenge the reasoned order passed by the Additional Chief Secretary to the Government of West Bengal, Department of Health & Family Welfare on December 29, 2015. Now, the applicants have challenged the said reasoned order on the ground that the Additional Chief Secretary to the Government of West Bengal, Department of Health & Family Welfare has not taken any decision with regard to the claim of the applicants and the said reasoned order is vague.

Learned Counsel for the applicants submits that the applicants have complied with the instruction given in the reasoned order dated December 29, 2015, but they have failed to produce documents to establish that the direction given in the reasoned order was complied with. None appears on behalf of the state respondents in spite of service of notice as reflected from the affidavit of service filed on behalf of the applicants.

On consideration of the impugned reasoned order, we find that the Additional Chief Secretary to the Government of West Bengal did not come to any conclusion whether the applicants are entitled to get financial benefits in terms of the Memorandum dated September 16, 2011 and subsequent Memorandums issued by the Finance Department, Audit Branch, Government of West Bengal. What transpires from the

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reasoned order is that the Additional Chief Secretary directed the applicants to submit respective copies of their engagement order and work report certified by competent authority and continuity certificate to substantiate the claim made by the applicants for getting financial benefits in terms of the Memorandums issued by the Finance Department, Audit Branch, Government of West Bengal. In the absence of production of copy of necessary documents required to be submitted in compliance with the direction given in the reasoned order, we cannot persuade ourselves to hold that the applicants acted upon the reasoned order by submitted copies of engagement order and other necessary documents before the CMOH, Birbhum. Since the respondent no. 4, Principal Secretary to the Government of West Bengal, Department of Health & Family Welfare has not taken any decision with regard to entitlement of the applicants to get financial benefits in terms of the Memorandums issued by the Finance Department, Audit Branch, Government of West Bengal as casual employee, we would like to pass the following direction without setting aside the impugned reasoned order as prayed by the applicants.

In view of our above findings, the applicants are directed to submit necessary documents with regard to their engagement as casual employees for getting benefit in terms of Memorandum No. 9008-F(P) dated September 16, 2011 and subsequent Memorandums issued by the Finance Department, Audit Branch, Government of West Bengal before the

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respondent no. 3, CMOH, Birbhum within a period of 4 (four) weeks from this date. The respondent no. 3, CMOH, Birbhum is directed to forward the claim of the applicants along with the documents submitted by them after verification from office record about the entitlement of the applicants to get benefit in terms of the Memorandums of the Finance Department, Audit Branch, Government of West Bengal as full time casual employee within a period of 8 (eight) weeks from the date of submission of the documents by the applicants. The respondent no. 4, Principal Secretary to the Government of West Bengal, Department of Health & Family Welfare is directed to take a decision with regard to entitlement of the applicants to get benefit in terms of Memorandum No. 9008-F(P) dated September 16, 2011 and subsequent Memorandums issued by the Finance Department, Audit Branch, Government of West Bengal as full time casual employees within a period of 4 (four) weeks from the date of receiving the report from the respondent no. 3, CMOH, Birbhum.

With the above direction, the original application is **disposed of.**

Let a plain copy of this order be supplied to the applicants.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib

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