

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 121 of 2020.

KALIPADA RAJAK – VS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

20
17.8.2023

For the Applicant : Mrs. S. Agarwal,
Advocate.

For the State Respondent Nos. 3,4,5 : Ms. R. Sarkar,
and 6 : Mr. S. Deb Roy,
Departmental representatives,
Land and Land Reforms.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. – II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsel for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for covering the applicant under Notification Nos. 9008 and 1107. The applicant has superannuated but without getting the financial benefits as stipulated in the above Notifications. Submissions on behalf of the applicant is that the applicant during his service days was very much entitled to be covered for benefits under these Notifications.

Ms. Sarkar refers to para 1 of Notification 9008 which stipulates that a casual/DRW/Contractual should have completed ten years of service continuously with at least 240 days attendance in a year. Submission on behalf of the respondent is that the applicant has worked only for 150 days in a year albeit for more than ten years. This is evident from page No. 24 of the application in which the applicant appearing at serial no. 56 has been recorded to have worked only 150 days in a year. Attention is also drawn to para 10 of Notification 9008 which mandates that such an employee should have been engaged against a sanctioned post. However, in the case of this applicant, his engagement was not against any sanctioned post. Furthermore,

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his engagement was not with approval of the competent authority.

Responding against above points of submissions, Mrs. S. Agarwal's submission is that as evident from page 24 in which the applicant is compared with serial no. 55 Basana Roy. Mrs. Agarwal finds that both Basana Roy and the applicant have been shown as "Fixed under column 10 and 11 to which Ms. Sarkar points out that Basana Roy as shown in column no. 9 had worked for 353 days, whereas the applicant was engaged only for 150 days.

After hearing the submission of the learned counsel and the departmental representatives, the Tribunal has come to this conclusion that the applicant's side has not been able to present any relevant documents to prove that he is eligible under Notification No. 9008. Benefits under these Notifications require a worker to have been engaged for more than ten years and worked for more than 240 days in a year. In this case, the applicant's document as shown by Mrs. Agarwal shows that the applicant had worked only 150 days in a particular year. Further, no proof of document has been presented to establish the fact that as stipulated in the Notification, the applicant was engaged against any sanctioned post and by the Approval of the competent authority.

As regards, the prayer for setting aside the impugned order directing the applicant to refund the excess drawn amount, the Tribunal does not find any merit in such prayer. It is the discretion of the respondent authority to ask for refund of the excess amount paid to the applicant. Therefore, the Tribunal does not find any merit in setting aside this impugned order. This application is disposed of without any order.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Skq.