

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member**

**Case No. – OA - 1221 of 2015**

**TAPAN KUMAR ROY - Vs - The State of West Bengal & Ors.**

Serial No.	For the Applicant	:	None
and			
Date of	For the State Respondents	:	Mr. Gautam Pathak Banerjee,
order			Mr. Gaurav Haldar,
			Learned Advocates

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19.06.2025

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

By filing this application, the applicant has prayed for setting aside the impugned order dated 22.05.2013 which was the decision of the Finance Department for absorption of the applicant as proposed by the Department of Public Health and Engineering. The Finance Department in its note had observed that the applicant was initially engaged as a part-time Farash and subsequently made a whole-time employee by the concerned department. The Finance Department has turned this as an irregular act of the department and violative of the Apex Court Judgment in “State of Karnataka v. Uma Devi”. Now, challenging this impugned order, learned counsel refers to departmental correspondence exchanged during 2011 in which one particular correspondence dated 29.09.2011 addressed by the Superintending Engineer to the Chief Engineer mentions that due to “out of sight”, the name of Tapan Kumar Roy was not taken into consideration at the time of preparation of list as per 100-Emp. for absorption into regular establishment. Learned counsel also relies on a correspondence dated 02.07.2012 from the Superintending Engineer to the Chief Engineer in which it is stated that the services of the applicant, Tapan Kumar Roy was “utilised” as Peon against the sanctioned vacancy. Relying on the above reference, Mr. S. Majumder submits that the applicant having worked against a sanctioned vacancy as admitted by the respondent deserves to be absorbed in the post of Peon.

Submission of Mr. S. Ghosh, learned counsel for the State respondents is that the applicant's monthly remuneration was fixed at Rs.2,600/- paid from the contingent fund. The applicant was never absorbed by the respondent authority, however, a proposal was submitted before the Finance Depart which did not agree to the absorption of the applicant. Mr. Ghosh also relies on the Government Notification dated 15.11.1996 which

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gives references to some relevant Notifications of the Government for absorption of Casual Workers into regular establishment with certain conditions. Mr. Ghosh submits that the applicant is relying on these Notifications, but these Notifications have been declared ultra vires by the Hon'ble High Court at Calcutta in WPST 483 of 2009 and since the Apex Court Judgment in "*State of Karnataka v. Uma Devi*" case is in force, no Government authority can regularise any Casual Worker into permanent establishment in violation of the Apex Court Judgment in Uma Devi case.

After close perusal of the facts manifest in the documents, the Tribunal finds that the proposal for his regularisation, as admitted by the Department, was missed due to 'out of sight' in the past. Such omission cannot be corrected at a later stage when the rules are not in favour and judgement in Uma Devi disallows. The Finance Department was correct in terming such engagement on whole-time basis as irregular. A wrong act in the past cannot be justified by such absorption at a later stage. Therefore, the Tribunal does not find any merit in the prayers. Thus, the application is disposed of without passing any orders.

SCN.

(SAYEED AHMED BABA)  
OFFICIATING CHAIRPERSON  
and MEMBER (A)