

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 236 OF 2021

DIPANKAR PANI - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. H.A. Rashid,
and Advocate
Date of For the State Respondents : Mrs. Sunita Agarwal,
order Advocate

17
19.11.2024

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.

By an order dated 05.08.2008, the applicant being a Civil Defence Volunteer was engaged to drive a vehicle of West Bengal Civil Emergency Force for not more than two weeks at a stretch in a month. Having served in such capacity till date, now the applicant has prayed for a direction to the respondent authority to absorb him in a regular post commensurate with his experience. It also appears that the respondent authority, through an advertisement, had called for willing candidates to participate in a selection process for recruitment to the post of Agragami. But the applicant did not participate. On the other hand, the Commandant, West Bengal Civil Emergency Force, had recommended name of this applicant to the competent authority to a vacant post of Driver in permanent service under his command.

Submission of learned counsel for the applicant is that despite such recommendation and furnishing several representations, the respondent authority has not considered his prayer. Submission is that on a similar application, this Tribunal in O.A. 439 of 2020 had directed the respondent authority to consider his representation and pass a reasoned order as per law.

In response to the submissions of the applicant's counsel, Mrs. Agarwal submits that as per the nature of engagement, he was neither engaged against any sanctioned post nor absorbed subsequently in any permanent post. Submission is that the applicant being a Driver was engaged temporarily only for two weeks in a

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month. As stated in the reply of the respondent, neither the applicant is eligible for absorption under any establishment nor is there any provision in law to absorb the applicant into permanent capacity.

From the submissions of the learned counsels and records in this application, it is not in dispute that the applicant has been engaged since 05.08.2008 as a Civil Defence Volunteer to drive a departmental vehicle for not more than two weeks in a month. The engagement was temporary in nature and was not against any sanctioned post with the express approval of the competent authority. Copies of various documents attached in this application show that the applicant has been serving in the post as a Civil Defence Volunteer without any complaints from the authorities. In fact, some of the detailing orders issued by the Commandant also show that the applicant had performed his duties for more than 20 days in a year. From the correspondence addressed by the Commandant to his higher authorities, it also becomes clear that there is a dearth of regular Drivers to drive the vehicles of the Department in the Districts and as such requests have been made to fill up these vacant posts. In 2019, the West Bengal Police Recruitment Board had published an advertisement for recruitment to the post of 169 Agrabami (West Bengal Civil Emergency Force). The applicant as a Civil Defence Volunteer was eligible to apply for this post. However, for reasons known only to the applicant, he did not apply for participation in this recruitment process. However, he kept on filing representations before the respondent authorities for his absorption in a regular post of Driver. The prayer also in this application is for a direction to appoint him in the regular post of Driver/Agrabami.

From the observations recorded above, the Tribunal is not satisfied that the applicant could be regularised in permanent establishment through the back door. The records show very clearly that the respondent authority had advertised vacancies and invited applications for recruitment to the post of Drivers/Agrabamis. Such appointment to the post was available to the applicant through his participation in the selection process conducted by the West Bengal

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Police Recruitment Board. However, for unknown reasons, he chose not to apply and participate, but, rather expected absorption in regular establishment by filing several representations. It is a well settled law that a post in the regular establishment of the government can be filled up by open advertisement inviting eligible candidates to participate. The complete recruitment process is guided by the relevant recruitment rules. Since it has become clear to the Tribunal that instead of participation in the recruitment process, the applicant expected and prayed for his absorption. The Tribunal cannot consider his prayer in this application as justifiable and valid. Therefore, it is disposed of without passing any orders.

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

SCN.

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