

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. OA – 511 of 2019

Ranjit Halder - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : None.

and

Date of order For the Respondents : Mrs. Saswati Bandyopadhyay,
26 Learned Advocate.

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 dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has filed this application praying for a direction to the District Authorities of Hooghly to reinstate his service as a Group – D.

From the submissions and the records in this application, it is understood that the applicant was appointed as a daily rated worker and he joined such a post on 25.05.2005 under the office of District Magistrate, Hooghly. Later on 31.07.2017, his services were terminated without any notice or a termination letter. Contention of Ms. Das, learned counsel for the applicant was that in terms of Notification No. 1107-F(P) dated 25.02.2016 appearing at para 3(i) such daily rated worker/casual worker like the applicant can continue in service upto the age of 60 years. Since his termination was made before he attained the age of 60, such decision of the respondent authority was arbitrary. Aggrieved by such termination, this applicant had approached this Tribunal and by an order in OA -1072 of 2017, the Tribunal had directed the District Magistrate to consider the matter after giving him an opportunity of hearing. The applicant was heard and a reasoned order was passed by the District Magistrate on 30.11.2018.

Having considered the matter, the District Magistrate came to the conclusion that the applicant had not performed his duties more than 15/16 days in a month. The reasoned order also noted that the applicant had not attended to his duties at least 240 days each year, as was required under the Notification No. 1107-F(P) dated 25.02.2016. Ms. Das, however, disagreed with such reason and relied on documents available with her to prove that the applicant had actually worked more than 10 years since his appointment in the post of Group-D on casual basis. Ms. Das also believed that the applicant had worked for more than 240 days in a year.

Responding to the submission of Ms. Das, Mrs. Bandyopadhyay, learned counsel appearing on behalf of the respondent authority and relying on the District Magistrate's reasoned order, insisted that the applicant, as evident from the order, had neither completed 10 years of continuous service nor completed at least 240 working days in a year. Thus, the applicant had not fulfilled the essential requirement as stipulated in 3(i) of Notification No. 1107-F(P) dated 25.02.2016 and thus cannot claim to be entitled for continuation of his service

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upto the age of 60.

Another disputed point is whether the applicant was engaged directly by O/o District Magistrate or through an agency. Attention had been drawn to a Memo No. 658 dated 22.03.2022 by which Nezarath Deputy Collector, Hooghly informed that the applicant was not engaged directly by office of the District Magistrate but his service was through an agency. Ms. Das had shown a copy of memo, which was the last engagement letter dated 02.06.2005.

In support of his contention that he has been working uninterruptedly since 2005, the applicant presented copies of worked certificates issued to him by the Officer-in-charge, P.P. Cell, Hooghly. These copies are of several months of 2016 only. Ms. Das, learned counsel on being asked while documents could not be presented for certifying his service in other years, she has submitted that prior to 2016, the applicant was required to sign a Registrar and no such certificate was given to him. It does not fully convince this Tribunal that the applicant has been able to substantiate his claim of having worked continuously since 2005. In an earlier application filed by the applicant being O.A. – 1072 of 2017, the prayer was made to regularise his appointment and the Tribunal had disposed of the application by directing the District Magistrate, Hooghly to verify the records and take final decision. The District Magistrate in his reasoned order did not agree that the applicant had been working continuously since 2005. Utmost the applicant had worked for 15/16 days in a month. Certain benefits allowed to such employees required having worked more than 10 years and at least 240 days in a year.

Having heard the submissions of the learned counsels and after examination of the records, the Tribunal is of the view that the applicant has failed to satisfy that he has been working for more than 10 years and 240 days in a year continuously. Applicant has not been able to substantiate his claim by way of production of documents. On the other hand, it appears from the records that his engagement on either contractual or ad hoc basis was not only temporary but not continuous to have rendered service for more than 10 years and 240 days in the year. Further, such workers engaged on temporary basis as per exigencies of work cannot claim to be absorbed under required establishment. Such employees can also not question the employment and pray for a direction for reinstatement. Having gone through this matter in detail, the Tribunal comes to the conclusion that the prayer in this application for reinstatement to the post of a Group – D on contractual basis does not have any merit. This application is disposed of without passing any orders.

A.K.P.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)