

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 106 of 2023

Dr. Kalyan Mitra -- VERSUS – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicant

: Mr. S. Ghosh,
Mr. G. Halder,
Learned Counsels.

07
15.05.2025

For the State Respondents

: Mr. G. P. Banerjee,
Learned Counsel.

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.

The prayer in this application is for absorption / regularisation of service of the applicant in the post of “Ayurvedic Medical Officer”. The applicant was appointed as “Ayurvedic Medical Officer” on contractual engagement for one year in the year 2012. Such appointment on contractual basis was renewed year after year. The appointment letter also stipulates that the candidate shall not have any right for his renewal and reengagement.

Submission of Mr. Sankha Ghosh, learned counsel for the applicant is that the applicant's prayer for regularisation is covered by the judgment in the State of Karnataka and Ors. vs. Umadevi and Others at paragraph 53 and also W.P.S.T. 303 of 2013, order dated 05.08.2013.

Mr. R.K. Mondal, learned counsel for the State respondents submits that on a similar matter, arising out of OA 881 of 2018, the respondent had considered and passed a reasoned order rejecting the representation. Submission of Mr. Mondal is that this application is also similar and is covered by the same reasoned order.

The applicant was engaged as an Ayurvedic Medical Officer on contractual basis by an order no. 1589 dated 12.11.2012 and posted at Malda District Hospital. Such contractual engagement was extended from time to time since he has been serving from more than 10 years, the

Form No.

Vs.

Case No. **OA 106 of 2023**

The State of West Bengal & Ors.

applicant now prays for regularisation/absorption on permanent basis. His contention is that, though engagement on contractual basis but his pay has been fixed at per those employees who are under regular establishment. Further, he was also awarded ROPA 2019 benefits.

Examining the relevant documents in this application, the Tribunal finds that a committee was formed under the Chairman of Director of Medical Education by the Department of Health and Family Welfare on 29.03.2012. The applicant had participated in the selection process and being successful he was engaged by an order no. 1589 dated 12.11.2012 “Purely contractual basis for a period of 1 year” by subsequent orders, the Director of Ayurvedic extended 1 year at a time. A copy of the last order no. 30099 dated 19.10.2022 shows the applicant’s service on contractual basis extended for another order from 12.11.2022. The reply was filed before this Tribunal on behalf of the State respondents on 27.06.2023 which this agrees that the applicant engaged a working on purely contractual basis can claim for regularisation. It argues that the applicant knowing very well terms at a contractual employee, extended for every year cannot have the right to claim for absorption in the same post. It also reminds that para 6 of the engagement no. 1589 clearly stipulates that such contractual engagement will not give any right of the entitlement for any regular employment under the Government.

Having heard the submission of the learned counsels and after examination of the records in this application, the Tribunal is of the view that an employee on contractual basis cannot claim as a right for regularisation or absorption into permanent establishment. The very fact that the applicant had accepted such terms of service as a contractual employee is clear proof that absorption under regular establishment is not admissible. The judgment in Umadevi case makes it clear that “claim for regularisation of contractual workers/employee had observed that the claim

Form No.

Vs.

Case No. **OA 106 of 2023**

The State of West Bengal & Ors.

of regularisation of contractual workers employee, the legal position continues and a mandamus could not be issued in favour of the employee directing the to make them permanent since the employee cannot shows that they have an enforceable legal right to be permanent absorb on that state as legal due to make them permanent.” Therefore, it is well settled law that such persons appointed on adhoc basis or contractual basis do not have any right to claim for a post under regular establishment.

Thus findings, no merit in the prayer of this application, this application is disposed of without passing any directions.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.