

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- 1124 of 2017

Dulal Chandra Shit -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mrs. S. Mitra, Ld. Advocate.

For the State Respondents : Mr. D. Kole, Ld. Advocate.

11
03.07.2024

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.

In terms of the Tribunal's order in OA-413 of 2011, the respondent, the Joint Secretary of the Commerce and Industries Department (Mines Branch) had passed a reasoned order dated 10.10.2012. The relevant paras of the order is as under :-

“As Shri Dulal Shit was engaged on 1.2.1996, i.e. before issue of Notification No. 100 Emp. dated 13.03.1996, in terms of the said notification his case should have been referred to finance & Labour Deptt. for proper examination. But it does not appear from records that case of Shri Dulal Shit has been finally disposed of by Labour and Finance Deptt. and that the case has been closed. Hence I think that for natural justice, the petitioner should be given an opportunity for re-examination of his case by appropriate and its subsequent disposal.

Hence it is ordered that Directorate of Mines & Minerals and thereafter Commerce & Industries Deptt. will examine the case of petitioner Shri Dulal Chandra Shit afresh and sent to Finance and Labour Deptt. for appropriate action within reasonable time as per relevant Govt. orders and rules applicable in such matters. Director of Mines & Minerals be informed accordingly.”

Submission of Mrs. S. Mitra, learned counsel appearing on behalf of the applicant is that after such an order was passed, however, the applicant is not aware of the final outcome and therefore prays for a direction to the concerned respondents to inform this Tribunal of the action taken as per the above order.

It is evident from the reasoned order that after considering the case of the applicant, the Joint Secretary directed the respondent no. 2 (iii), the Director of Mines and Minerals to examine the case of the applicant and submit a fresh proposal before the Finance and Labour Departments.

In short, this matter relates to absorption of the applicant in the post of a Group-D under the Department of Commerce and Industries (Mines Branch). The

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applicant's services as a casual worker on casual basis were discontinued from 01.10.2003. From the records, it is clear that his engagement was neither by the competent authority nor against any sanctioned post. When some other casual workers were absorbed in regular establishment in 2005, he felt left out and aggrieved and approached this Tribunal. This Tribunal in OA 413 of 2011 passed a direction on 12.09.2011 directing the Joint Secretary of the Department to consider the case and pass a reasoned order. In terms of such direction, the Joint Secretary passed the reasoned order on 10.10.2012. After examination of the matter, the Joint Secretary was of the opinion that the applicant's case deserves to be re-examined and directed the Director of Mines and Minerals to examine the case afresh and send to Finance and Labour Department for appropriate action. Aggrieved that no follow up action was taken in terms of the Joint Secretary's reasoned order, the applicant had filed this application praying for a direction to the respondent authorities.

After hearing the submissions of the learned counsels and on examination of the records in this application, the Tribunal is of the opinion that the Department should examine this case and take a final decision whether the applicant, whose services as a casual worker was discontinued from 01.01.2003, deserves to be absorbed against any sanctioned post or not. Several Notifications are available guiding the Departments regarding enhanced remuneration and absorption of casual workers in regular establishment. The Department may well be guided by these Notifications and take a final decision and dispose of the same on its own. If the Department, after examination, is of the opinion that the applicant has the necessary requisites to be absorbed in a regular establishment, further follow up action may be taken by obtaining the approval of the Finance Department. The entire exercise till passing of a reasoned order may be completed by respondent No. 2(i), Secretary of the Department within three (03) months from the date of communication of this order.

Accordingly, this application is **disposed of**.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)