

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 1146 of 2015

Mitali Bhattacharjee & Ors. -- VERSUS – The State of West Bengal & Ors.

Serial No. and For the Applicants : Mr. C. Ghosh, Ld. Advocate.

Date of order For the State respondent : Mr. S.N. Ray, Ld. Advocate.

28
13.11.2024

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.

The applicants have prayed in this application for a direction to the respondent authorities to absorb them in the permanent post of Female Warders under the Department of Correctional Administration. By several orders during January-February, 2009, the applicants were engaged to serve the post of Extra Temporary Female Warders. The Department of Jails, as it was known then, by memo no. 775 dated 01.07.2009, with approval of the competent authorities, created 158 posts of Female Warders. These newly created posts of Female Warders were to be filled up from the eligible Extra Temporary Female Warders working in different correctional homes. During the process while filing up the newly created posts of Female Warders from the Extra Temporary Female Warders, the Department found that out of 158, 35 vacancies have occurred due to various reasons. By memo. no. 443 dated 21.06.2013, approval was accorded to fill up these 35 vacant posts of Female Warders in different correctional homes. Having come to know that there are 35 vacant posts of Female Warders, the applicants jointly furnished a representation before the Inspector General of Correctional Services dated 11.11.2013 requesting filling up these vacant posts by the applicants. It was also pointed out that a total of 23 Extra Temporary Female Warders have been working in the said posts and have become eligible to be absorbed in the vacant posts of Female Warders. The Department submitted a proposal for absorption of these 23 Extra Temporary Female Warders against the vacancies in the Female Warders to the Finance Department by its memo. no. 1743 dated 28.01.2015. From the submissions of the learned counsels and the records, it has become clear to this Tribunal that a proposal submitted by the Administrative Department was not agreed to by the Finance Department on 24.07.2012. The response of the Finance Department to a subsequent proposal submitted before the Finance Department by memo. no. 1743 dated 28.01.2015 is

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not known.

Mr. C. Ghosh, learned counsel appearing on behalf of the applicants has the following submissions to be made :

- (i) The applicants were appointed against sanctioned posts after being successful in the selection process conducted by respective Superintendent of Correctional Homes with the approval of the Inspector General of Correctional Homes.
- (ii) Similarly circumstanced Extra Temporary Female Warders under the same Department were earlier absorbed in regular establishment.
- (iii) Despite being eligible to be absorbed as pointed out above, the applicants were not absorbed into regular establishment for the post of Female Warders and no reason has been communicated for such rejection.

In response to the submissions of Mr. Ghosh, Mr. Ray, learned counsel for the State respondents makes the following submissions :

- (i) These applicants were never engaged against any sanctioned posts.
- (ii) Relying on para 5 of the Report filed by the respondent authority he submits that the 35 vacant posts which had occurred out of 158 posts created for Female Warders were never filled up by any of the Extra Temporary Female Warders.
- (iii) Further, as stipulated in memo no. 775-Jails, such vacancies cannot be filled up without approval of the Government. Though a proposal of the Administrative Department was agreed in principle by the Finance Department, but it was subject to approval of the Cabinet. The Administrative Department was not accorded the Cabinet approval.

Both the learned counsels wish to submit their further points on the next date of hearing.

Let the matter appear under the heading **“Further Hearing”** on **08.04.2025**.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)