

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 1167 OF 2017

GOPINATH MONDAL & ORS. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and

Date of order

10

21.02.2022

For the Applicant

: Mr. Masud Karim,
Advocate

For the Respondents

: Mrs. Saswati Bandyopadhyay,
Advocate

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6(5) of the Administrative Tribunals Act, 1985.

Though the application has appeared under the heading "Admission Hearing", Mr. Masud Karim, learned advocate for the applicant submits since it is pending since 2017, the matter may be taken up for hearing to which Mrs. Saswati Bandyopadhyay, learned advocate on behalf of the State respondents, does not oppose.

In this application, Gopinath Mondal, Subrata Baidya and Prasanta Kumar Tanti, the applicants, have prayed for several reliefs, the relevant portion of which is as under:-

“(a) An order directing the Respondent Authorities, their subordinates, servants and men to show cause as to why the said impugned order dated 10th August, 2017 in No. 1E-178/2016/5220-5316 A dated 10th August, 2017 issued by the Additional Director of Employment, West Bengal, the Respondent No.2 mentioned in annexure “G” to the application should not be quashed / cancelled and or set-aside by re-appointing the applicants.”

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It is submitted by Mr. Karim that though the applicants, belonging to the Schedule Caste category, registered with the local employment exchange, appointed as part time sweepers after compliance of all formalities and were doing their duties, the order of discontinuation of service dated 10th August, 2017, issued by the Additional Director of Employment, West Bengal, the respondent no.3 is harsh and illegal.

Since it is evident from the exhaustive report dated 5th April, 2019, issued by the O.S.D. & E.O. Director of Employment, West Bengal, being annexed to the supplementary affidavit, that the wages are outstanding against the three applicants, the respondents may be directed to allow the applicants to resume their work and to pay their outstanding wages which was sanctioned.

Mrs. Bandyopadhyay submits since the respondent no.3 without the approval of the Finance Department and in violation of the Finance Department memorandum dated 23rd April, 2010, as evident from the impugned order dated 10th August, 2017, being annexure "G" to the application, had appointed the applicants, the action of the respondents in disengaging the applicants is just and proper. Submission is if outstanding wages are still unpaid, it will be disbursed at the earliest.

The applicants were casual / daily rated workers on a consolidated pay. It appears from the impugned order dated 10th August, 2017 that they were engaged without the approval from the Finance Department and the Labour Department and in violation of the Finance Department memorandum dated 23rd April, 2010. Since the Finance Department provides finances for the wages, sanction of the Finance Department is required. Since no sanction was obtained from the Finance Department, in my view the discontinuation of the service of the applicants was legal. However, as outstanding wages are yet to be paid to the applicants, considering the said fact, the application is disposed of by directing the Director of Employment, West Bengal, Kolkata, the respondent no.2, to disburse the outstanding wages of the three applicants, which was sanctioned as evident from

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the enclosure to the intimation dated 5th April, 2019, issued by the O.S.D. & E.O. Director of Employment, West Bengal being annexed to the supplementary affidavit, within fifteen weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing, after verifying the records and after making necessary enquiry.

(SOUMITRA PAL)
CHAIRMAN

WEST BENGAL ADMINISTRATIVE TRIBUNAL