

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**The Hon'ble Justice Soumitra Pal, Chairman**

**Case No. - OA 1168 OF 2017**

**ASHOK KUMAR BAIDYA - 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 11<sup>th</sup> 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, Ashok Kumar Baidya, the applicant, has 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 it the said impugned order dated 10<sup>th</sup> August, 2017 in No. 1E-178/2016/5220-5316 A dated 10<sup>th</sup> 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 applicant."*

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It is submitted by Mr. Karim that though the applicant, belonging to the Schedule Caste category, registered with the local employment exchange, appointed as part time sweeper after compliance of all formalities and was doing his duties, the order of discontinuation of service dated 10<sup>th</sup> 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 13<sup>th</sup> August, 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 applicant, the respondents may be directed to allow the applicant to resume his work and to pay his 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 23<sup>rd</sup> April, 2010, as evident from the impugned order dated 10<sup>th</sup> August, 2017, being annexure "G" to the application, had appointed the applicant, the action of the respondents in disengaging the applicant is just and proper. Submission is if outstanding wages are still unpaid, it will be disbursed at the earliest.

The applicant was casual / daily rated worker on a consolidated pay. It appears from the impugned order dated 10<sup>th</sup> August, 2017 that he was engaged without the approval from the Finance Department and the Labour Department and in violation of the Finance Department memorandum dated 23<sup>rd</sup> 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 applicant was legal. However, as outstanding wages are yet to be paid to the applicant, 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 applicant, which was sanctioned as evident from the

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enclosure to the intimation dated 13<sup>th</sup> August, 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