

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA 149 OF 2023

NIRMAL DAS BAISNAB & ANOTHER - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mrs. Sunita Agarwal, Advocate
<u>5</u> 07.03.2024	For the Respondents	:	Mr. M.N. Roy, Mr. Gaurav Haldar, Advocate

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.

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

By filing this application and similar applications in this Tribunal, the applicants have been agitating before the respondent authorities to consider them as daily rated workers and not as piece-rated workers. From the records and the submissions of the counsels it appears that they were engaged from time to time since 2015 to work as seasonal workers in Dubrajpur Block Seed Farm. The applicants have expressed their grievances that though they were required to work in the firm as workers for 25-27 days, but they were paid remuneration only as piece rated workers for 14 to 15 days in a month. In terms of this Tribunal in an earlier matter being O.A. 514 of 2021, the Principal Secretary of Agriculture Department had passed a reasoned order and did not consider their prayer. It is clear to the Tribunal from the application that they were engaged as agriculture labourer from time to time as and when work in the farm demanded. They were neither appointed with approval of the competent authority nor against any sanctioned post. By their own admission, the applicants did not possess any such appointment or engagement letter. Only evidence presented to show that they had worked is the bank statement in which their remunerations were credited by the

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office of the respondent authority. They have also prayed for giving them an enhanced consolidated remuneration as stipulated in several memorandums of the government like notification No. 9008-F(P), 4011-F(P), 7245-F(P), 1033-F(P2), and 3998-F(P2). On close examination of these notifications it is clear to this Tribunal that such remunerations and other benefits are meant for employees engaged on casual / daily / contractual workers. One of the important requirements to receive such benefits under the notification No. 9008-F(P) is that they should have been engaged for more than 10 years continuously as on 01.08.2011. The notification also mentions another criteria that such employees should have worked at least 240 days in a year. However, the Tribunal fails to be convinced that the applicants are covered by such notification.

Paragraph 10 of the notification No.9008-F(P) also appears to hinder the prayer of the applicants. This paragraph clearly states that provisions of this notification will not be applicable where such contractual engagements have been made without any sanctioned post. Therefore, it is clear that these applicants who were engaged irregularly and not against any sanctioned post are entitled to receive any higher remuneration as per the above mentioned notifications. It is an undisputed fact that by the very nature of management of an agricultural farm, helping hands are required on need basis at the time of sowing and harvesting. These applicants being such helpers during such occasions cannot be termed as contractual or daily rated worker. Therefore, such an enhanced remuneration of benefits as stipulated in the above memorandums cannot be extended to them.

In view of the foregoing observations, the Tribunal has come to this finding that the reasoned order regretting their prayer was on merit and was passed as per the Rules. Therefore, this application is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.