

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 15 OF 2024

MD. SARIF HALDER & ORS. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicants : Mr. G.P. Banerjee,
and Advocate
Date of
order For the State Respondents : None

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13.12.2024 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 prayer in this application is to set aside the impugned reasoned order dated 05.12.2022, passed by the Principal Secretary, Health and Family Welfare Department; to absorb the applicants in regular posts of Group-D staff; and to pay emoluments and benefits of G.O. No.3998-F (P2) dated 15.07.2019. Earlier by filing O.A. 518 of 2014 and O.A. 553 of 2022, the applicants had approached this Tribunal and as per order of the Tribunal, the Principal Secretary of the Department had passed the reasoned order. It appears that since 2008 the applicants were engaged in different Primary Health Centres and had been working as temporary / daily rated / contractual workers as per resolution of Rugi Kalyan Samity (R.K.S.) meeting. Since then they have been getting honorarium from the local authority. They had been issued certificates to the effect that they had been working 240 days in a year and their applications for regularisation in the permanent posts were recommended and forwarded before the respondent No.3 and 5. It is submitted that the applicants had challenged the matter by filing two earlier OAs with the self-same prayer.

Heard learned counsels for the parties and perused the materials available on record. In view of the facts and circumstances of the case, the Tribunal is of the opinion that the prayers of the applicants have been considered and a final decision has been taken by the Department as per earlier directions of the Tribunal. Therefore, the prayers of the applicants are hit by the principle of res judicata. The applicants, being engaged as per resolution of Rugi Kalyan Samity meeting, the Tribunal does not have any jurisdiction to decide the matter as they are not the civil posts of the government. Moreover, the memo No.3998-F(P-2) dated 15.07.2019 for re-deployment of the temporary / contractual /

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casual workers etc. is not applicable in this case as the same is applicable in the case of the regular employees only. Such volunteer health workers have been getting payments from time to time as per different orders and they do not have any legal right in their favour to be absorbed in view of the observation held by the Hon'ble Apex Court in the case of Union of India & Ors. versus Uma Devi & Anr. (2021 SCC online SC 899). Therefore, the Tribunal does not find any illegality and the respondent authority was correct in rejecting the prayer of the applicants for absorption.

Accordingly, the application, being devoid of any merit, is disposed of without passing any order.

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

SCN.

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