

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 154 OF 2023

SHAMBHUNATH NASKAR - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

05
24.02.2025

For the Applicant : Mr. Golam Mustafa
Advocate
For the State Respondents : Mr. Goutam Pathak Banerjee
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 contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for restraining the respondents from giving any effect to the impugned order in Memo. No. 2629/1(1)/TET/IC-3T/2012 dated 20.09.2013 passed by the respondent No. 2. In the impugned order, the monthly remuneration of the applicant was fixed. The applicant was engaged as a part-time Night Guard at Palta Extension Shelter and subsequently his remuneration was enhanced after being promoted as Clerk-cum-Typist-cum-Caretaker.

Attention is drawn to pages 40 to 42 which is an order of the Hon'ble High Court passed on 16.09.2022 in WPCRC 156 (W) of 2016 in WPST 342 of 2013 (Shri Shambhunath Naskar Vs. Dr. Parijat De & Anr.). It is evident from the order that one contempt application with CPAN 2111 of 2013 was dismissed giving liberty to the applicant to approach this Tribunal for its decision of the impugned order dated 20.09.2013, if admissible in law.

Mr.G.P.Banerjee, learned counsel appearing on behalf of the State respondents submits that this application is barred by limitation due to the reason that the impugned order being challenged in this application was passed by the respondents way back in the year 2013. This application for challenging this impugned order was filed in this Tribunal on 03.03.2023. Responding on the question of admissibility of this application due to limitation, Mr.Mustafa, learned counsel for the applicant submits that the impugned order was not communicated to the applicant within the time.

From the submissions of Mr.G.Mustafa, learned counsel for the applicant, it has been made clear that since the applicant has already superannuated and therefore, the prayers relating to his absorption as regular establishment is not relevant. In terms of the direction of this Tribunal in OA-139 of 2012 and the Hon'ble High court in WPST-342 of 2013, the respondent authority, the Director of Technical Education and Training had communicated his decision to the Principal, Jnan Chandra Gosh Polytechnic by Memo. 2629 dated 20.09.2013. This communication had mentioned that there is no provision in the rules to engage any person to the post of Group-D on casual basis. Further, this communication also informed that the applicant was given the remuneration of Rs, 2000/- being a part-time Group-D employee in terms of the latest Finance Department's Memo. dated 07.09.2009. Mr.Mustafa, has submitted that Rs. 2,000/- per month was enhanced to Rs. 3,000/- subsequently.

The Tribunal having examined the matter has come to this finding that the applicant is not agitating for his absorption into regular establishment. It is also clear from the Memo. 2629 passed by the Director of Technical Education & Training that at the relevant point of

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time in 2013, the applicant was being given remuneration of Rs. 2000/- per month in terms of the prevailing Finance Department's Memo. The applicant has not agitated that any particular Finance Department's notification for enhanced remuneration were not given to him. It is not in dispute that while the applicant was in service he was provided with the enhanced remuneration as per prevailing Government notification. Therefore, the Tribunal does not find any valid ground on the basis of any specific Government notification for enhanced remuneration which has not been paid to him by the respondent authorities.

Therefore, finding no merit, this application is disposed of.

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

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