

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 218 OF 2022**

PRASANTA KUMAR BAGDI & ANOTHER	- Vs -	THE STATE OF WEST BENGAL & OTHERS
Serial No. and Date of order	For the Applicants	: Mr.Srikanta Datta Advocate
<u>10</u> 13.11.2024	For the State Respondents	: Mr. Sankha Ghosh 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.

In terms of a direction of this Tribunal in OA-320 of 2019, the Director of Health Services passed the reasoned order on 26.07.2021. The applicants had prayed for payment of remuneration in terms of Memo. 3727-F dated 20.05.2009 and later modified by Memo. 728 dated 27.11.2017 and by Memo. 9008-F(P) dated 16.09.2011. The applicants are working as daily rated workers under Rampurhat Government Medical College & Hospital, Birbhum. Their contention is that by working since 01.08.1996, they have now become eligible to receive the financial benefits as stipulated in the above mentioned Memos. However, the Director of Health Services observes that though they are working since 01.08.1996 as certified by the then Superintendent of Sub-Divisional Hospital, Rampurhat, but such engagement as daily rated worker was without the approval of the competent authority. Further, these applicants as contractual GDA's could not prove that their engagement was as per rules. Mr.Datta, learned counsel appearing on behalf of the applicants draws attention to

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a copy of Memo. 1093 dated 29.06.2010. By this correspondence addressed by the Superintendent to the Director of Health Services, it has been certified that the applicants have been working for more than 10 years as on 01.04.2010 and more than 240 days in a year. The Superintendent further informs that the services of the applicants are still being utilized by the Hospital in the face of acute dearth of Group-D staff. Having stated the length of engagement, the Superintendent now requests the D.H.S. to accord necessary permission for sanctioning of such benefits under the Memo. 2966-F(P) dated 23.04.2010.

After examination of the records in this application, the Tribunal observes that page-54 being annexure giving details of the employees signed by the Superintendent of Rampurhat Health District Hospital dated 05.01.2018 records the date of engagement of the applicants from 01.08.1996, engaged as a casual workers and having performed their duties 300 days in a year. As per the same information, the applicants are paid Rs. 2600/- per month, but against the column "Whether engaged against sanctioned post", it is recorded "No" for both the applicants.

Mr.Ghosh, learned counsel has submitted that though it is agreed that the applicants have been working since 01.08.1996, but as evident from the reasoned order itself they were never engaged with the approval of the competent authority.

From the submissions of the learned counsels and on examination of the records in this application, it is amply clear to the Tribunal that the applicants were engaged as daily rated workers since 01.08.1996. A Memo. No. 926 dated 27.07.1996 issued by the Superintendent of Rampurhat S.D. Hospital records that the applicants Prasanta Kuma Bagdi (Das) and Md.Sabir were engaged as daily rated workers.

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However, this engagement order does not mention that such engagement was in terms of approval by the competent authority. As can also be seen from the annexure mentioned above, the applicants were not engaged against any sanctioned post. It is unfortunate, but true that the applicants, having worked since 1996 are not covered by the Notifications and thus not entitled to receive enhanced financial benefits. Though working for more than 10 years, but the fact remains unaltered that their engagements were not against sanctioned posts and with approval of the competent authority.

Para (x) of Memo. 9008-F(P) dated 16.09.2011 requires such a contractual employee to be engaged against a sanctioned post. Since it is not in dispute that the engagements were not against sanctioned post nor with the approval of the competent authority, their prayer for enhanced remuneration was not accepted. The Tribunal does not find the reasoned order regretting their prayer to be incorrect; the respondent authorities were right in taking such a decision within the framework of the law. The application is disposed of.

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

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