

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 229 of 2022.

TILAK BISWAS – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

8  
11.4.2023

For the Applicant : Mr. S. Bhattacharjee,  
Mrs. P. Sasmal,  
Advocates.

For the State respondents : Mr. S.N. Ray,  
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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

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

The prayer in this application is for setting aside the order of termination dated 21<sup>st</sup> June, 2020 passed by the respondent which terminated the service of the applicant as contractual Data Entry Operator.

After hearing the submission of the learned counsels and examining the record, it is clear that the respondent, ADG & IG of Correctional Services passed a very cryptic order terminating the contractual service of the applicant on the basis of the provision laid down in para 12 of G.O. No. – 5859-F(Y) dated 22.07.2013. The relevant portion of which is as under :-

*“.....Shri Tilak Biswas, Contractual Data Entry Operator of Baruipur Central Correctional Home is hereby terminated from service with immediate effect*

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**-Vs-**  
**THE STATE OF WEST BENGAL & ORS.**

*as per provision laid down in Para 12 of G.O. No. 5859-F(Y) dated 22.07.2013.*

*ADG & IG of Correctional Services,  
West Bengal”.*

Para 12 of G.O. 5859-F(Y) dated 22<sup>nd</sup> July, 2013 relied by the State respondent, terminating the service of the applicant, is as under :-

*“...If performance of any Software Personnel in the project is found to be not satisfactory, the Department/Directorate may terminate service of the Software Personnel based on the recommendations of IT Department/NIC project leader or the project In-charge.....”.*

From the above, It is clear that this para 12 in which the termination of service has to be based on the recommendation of IT department/NIC Project leader is meant for Software Personnel only and not for Data Entry Operator. Thus, the respondent has failed to appreciate this and by relying on this, terminated the service which is non-est in the eyes of law. Para 12 of the Government Order No. 5859-F(Y) dated 22<sup>nd</sup> July, 2013 is not for such termination of a Data Entry Operator.

Therefore, this termination order dated 22<sup>nd</sup> July, 2013 is liable to be quashed and set aside and hence, it is quashed and set aside with a direction to the respondent no. 2 to consider the matter afresh and pass a valid reasoned order within a period of twelve weeks from the date of communication of this order.

The matter is disposed of.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

Skg.