

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 365 of 2023

Manirul Islam Khan & Ors. - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

03
05.10.2023

For the Applicant : Mr. A. Maity
Learned Advocate.
For the State Respondents : Mr. G.P. Banerjee,
Learned 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.

Mr. Maity files a supplementary affidavit enclosing copies of documents which are Commanding Certificates. By filing these certificates, Mr. Maity emphasises his submission that these applicants, though, on contractual appointment performs duties and responsibilities equal to regular constables of Kolkata Police. Since the set of reliefs sought for in this application also relates to Equal Pay for Equal Work, Mr. Maity prays for a direction to the respondent authorities to consider enhancement of their remuneration.

By drawing attention to page 74 of this application, Mr. Maity submits that earlier the office of Commissioner of Police had proposed such enhancement for these applicants working on contractual basis. However, by passing a reasoned order, the Addl. Chief Secretary of Home & Hill Affairs Department rejected the proposal.

ORDER SHEET

Form No.

Manirul Islam Khan & Ors.

Case No **OA 365 of 2023**

Vs.
THE STATE OF WEST BENGAL & OTHERS.

In this application the applicant has also prayed for setting aside this reasoned order passed by the Addl. Chief Secretary, Home & Hill Affairs Deptt. on 10.06.2021, rejecting enhancement of their remuneration.

Concluding his submissions, Mr. Maity prays for an interim order staying the decision of the reasoned order passed by the Addl. Chief Secretary on 10.06.2021 and further prays for an interim order directing the respondent authorities to enhance the remuneration of the applicants.

Appearing on behalf of the state respondents, Mr. G.P. Banerjee, learned counsel submits that during hearing of this matter in the Hon'ble High Court in WPA-8406 of 2020, the petitioners had not pressed for prayer (b) of this application, which is "regularisation of their services to the to the post of Constable". Since such prayer was not pressed in Hon'ble High Court, this prayer in this application is not admissible. Further submission of Mr. Banerjee is that the prayers (b) & (c) are contradictory to each other. Since the prayer (b) is for regularisation of services, prayer (c) for enhancement of their remuneration as contractual employees is not in conformity with the prayer (b).

Further Mr. Banerjee finds prayer (d) which is for setting aside the reasoned order by Addl. Chief Secretary, Home & Hill Affairs Deptt. dated 10.06.2021 barred by limitation. Drawing attention to paragraph (i) of the appointment letter for one of the applicants, Mr. Banerjee emphasises on the word "Contractual". Submission is that the appointments were made on contractual basis which was clearly stated in the appointment letters. Also point no. (iv) of the same appointment letter indicates that the applicant was in receipt of pension. Therefore, as

ORDER SHEET

Form No.

Manirul Islam Khan & Ors.

Vs.

Case No **OA 365 of 2023**

THE STATE OF WEST BENGAL & OTHERS.

a recipient of pension, such applicant working on contractual basis cannot be equated with the same duties, responsibilities and benefits with that of a regularly appointed Constable.

After hearing the submissions from both the learned counsels, the Tribunal admits this application. The point of maintainability of this application will remain open. Let further submissions be continued on 07.02.2024.

Let the matter appear under the heading Hearing on **07.02.2024**.
Reply/Rejoinder, if any, in the meantime.

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

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