

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 444 OF 2017

DEBASISH CHANDA - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

16
02.07.2024

For the Applicant : Mr.S.Panda
Ms.G.Kayal
Advocates
For the State Respondent : 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.

The matter relates to allowing resumption of duty of the applicant as a Deep Tube well Operator after being absent for more than five years. The matter had been considered and disposed of by the Hon'ble High Court with a direction to the Tribunal to hear the matter afresh.

Briefly, this case under consideration relates to the applicant as an employee having remained absent without notice or permission for almost three years. Debasish Chanda, the applicant, a DTW Operator was appointed by the Department of Agri Irrigation and posted under the Executive Engineer (A-I) Barasat Division on 29.01.1997. As submitted by his counsel, due to medical reasons, he could not attend his duties from 12.05.2005 to 04.03.2008. A copy of prescription from a private clinic, "Das Clinic" records that Debasish Chanda is suffering from schizophrenia with effect from 12.05.2005 to 04.03.2008. After close examination of this "doctor's prescription" the Tribunal has serious doubts about the authenticity of this prescription. It is a non-serious medical paper relating to a serious disease like schizophrenia diagnosed by a non-specialist doctor. However, on 05.03.2008, the applicant had addressed a prayer before the Block Development Officer, Goighata Block and requested him for regularising his leave and allow him to join

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his duties. In the prayer, the doctor's prescription as referred above was enclosed. This was followed by similar prayers dated 18.03.2008 and 20.03.2008. Though it is clear that the applicant had submitted his prayers for allowing him to join before the B.D.O., Gaighata Block, but Mr.S.Ghosh, learned counsel shows copies of correspondence by the B.D.O. addressed to the Department of Agri Irrigation. These correspondence of the B.D.O. includes a show cause notice issued to the applicant for remaining absent for so many days without intimation. The B.D.O. has also noted that the applicant, being a D.T.W. Operator has caused untold suffering to the farmers by remaining absent and not operating the tube well. By another correspondence dated 24.05.2005, the B.D.O. advises the Assistant Engineer (A-I) Bongaon to direct the applicant for a medical examination and also direct him to attend the office and discharge his duties. As clear from the records, though such advise was given on 24.05.2005, but records reveal that he had remained absent during 12.05.2005 till 04.03.2008. It also transpires from other correspondence of the B.D.O. that the applicant was known for his habitual absenteeism from duties and does not heed to the frequent calls made by the B.D.O. asking him to join his duty. It is also interesting to read a correspondence from the B.D.O. to the Superintending Engineer (A-I) dated 04.07.2016. In this correspondence, the B.D.O. observes that from the letter of the Superintending Engineer, it was learnt that the applicant had come to join on 05.03.2008, 18.03.2008 and 20.03.2008, but as B.D.O. and head of the office, he has not seen the person in office on these days.

From the records as presented by both the sides, it has become clear to the Tribunal that the applicant, as a D.T.W. operator had remained absent from his post without permission. The Tribunal also is

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not satisfied with a private Doctor's prescription showing him as a schizophrenia. Had the applicant been actually suffering from schizophrenia, his medical treatment would have been by a specialised doctor in a hospital specialising in such treatment. He has left an image of himself in the office of B.D.O. and his workplace as a habitual absentee. By remaining absent from his core responsibility of operating the deep tube wells in the rural belt must have certainly dented the image of district authority and losses to the farmers. The B.D.O. is only his local supervisor and uses his service as a D.T.W. Operator, but his primary employer is the Department of Agri Irrigation, now renamed as Water Resources Investigation & Development Department. Therefore, in the opinion of this Tribunal, it is the Department who should examine the entire case and take a decision regarding his absence, joining, payment of his back wages, leave regularization, disciplinary proceedings, etc.

In view of the above observation, this Tribunal advises the respondent, the Principal Secretary, Department of Water Resources Investigation & Development to examine this case objectively and take a final decision and communicate the same to the respective offices and the applicant.

Liberty is given to the applicant to add the Principal Secretary, Department of Water Resources Investigation & Development as Respondent No. 1(A) and serve a copy of this application along with a copy of today's order of the Tribunal.

Accordingly, the application is disposed of.

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

BLR