

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

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

**Present-**

**The Hon'ble SAYEED AHMED BABA, Member (A)**

**Case No. – OA-445 of 2022**

|                                 |                                      |   |  |
|---------------------------------|--------------------------------------|---|--|
| Serial No. and<br>Date of order | Manoj Kumar Rai<br>For the Applicant | : | <b>VERSUS –</b> The State of West Bengal & Ors.<br>Mr. T.K. Majumder,<br>Learned Advocate. |
| <u>03</u><br>12.09.2022         | For the State<br>Respondents         | : | Mrs. Sunita Agarwal,<br>Learned Advocate.  |

In this application the prayer is for setting aside the impugned order of the respondent dated 13.04.2022 by which the service of the applicant was discontinued. The applicant was earlier appointed under the compassionate employment scheme on 28.11.2000. Aggrieved by the notice of discontinuation, the applicant had earlier approached the Tribunal in OA-952 of 2018. The Tribunal considered his application and passed an order, relevant portion of the order is as under :-

*“Since we find that the appointment was made on a contract basis and thereafter, he was disengaged, no order can be passed on this application. However, as the Commanding Officer, 3, Bengal Bn. N.C.C. vide intimation dated 28<sup>th</sup> November, 2003 to the Deputy Secretary, Govt. of West Bengal, Home (Civil Defence-NCC) Department, Kolkata made a request to put the applicant in the regular establishment in the then pay scale of Group-D staff as per ROPA-1998, respondent authorities, if in a position to do the needful even after the passage of so many years, are at liberty to put the applicant in the said job, if available, on same terms and*

*conditions and in accordance with law expeditiously.”*

Learned counsel for the applicant submits that 250-Emp dated 03.12.2013 cited in the impugned order on 13.04.2022 is not relevant in this case because applicant’s father died in the year 1985 which was prior to the effect of this Notification. Secondly, counsel for the applicant submits that as per the contractual work order, his service was to be terminated with a prior notice of one month. In this case, the applicant was terminated summarily without giving any prior notice. Therefore, the termination in the impugned order is unlawful and should be set aside.

Mrs. Agarwal submits that the applicant had moved this Tribunal with the same cause of action in the year 2018 and the order passed by the Tribunal made it very clear that the appointment was on contractual basis, therefore, setting aside the impugned order is not correct.

Mrs. Agarwal further submits that she will file reply against the two points raised by the counsel for the applicant by the next date.

Let the matter appear under the heading “Hearing” on **21.12.2022**. Reply/rejoinder, if any, in the meantime.

sc

SAYEED AHMED BABA  
MEMBER (A)