

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

**Case No. – OA 45 of 2023**

Sunil Kr. Singha & Ors. -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicants	: Mr. G. Halder, Ld. Advocate.
<u>04</u> 26.07.2023	For the State respondent	: Mr. G.P. Banerjee, Mr. Shaon Bhattacharya, Ld. Advocates.

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 counsels for the contesting parties, the case is taken up for consideration sitting singly.

In terms of a direction of this Tribunal by an order dated 02.05.2023, the Director General, Fire & Emergency Services has filed a report clarifying the service status of these applicants. Let the said report be kept on record and a copy has been served upon the learned counsel for the applicant. In this report, Director General, Fire & Emergency Services relying on report submitted by the Divisional Fire Officer, Murshidabad holds that :

- i. That the applicants are receiving the enhanced pay of Rs.3,000/- as part-time Sweepers, now termed as Karmabandhu. Such payments are made from the contingency bill and not from the regular establishment.
- ii. Such Engagement of these applicants as part-time Sweepers were not made against any sanctioned post. Such engagements were in fact done at the local level of the Fire Station without any sanction and approval of the competent authority in the Department or the Directorate as stipulated in the Memorandum No. 9008-F(P) dated 16.09.2011.
- iii. None of the applicants have been working continuously for 10 years at any of the respective Fire Stations as on 01.08.2011.

From the above statements and other records in this application, the Tribunal is of the view that the prayer for enhanced benefits as stipulated

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under Memorandum No. 9008-F(P) dated 16.09.2011 has no merit because the applicants' side has not been able to establish the fact supported by any documentary proof that they were engaged as contractual/casual workers. Further, the applicants have not been able to satisfy this Tribunal that in their capacities as part-time Sweepers, they have been working for more than 10 years prior to 01.08.2011. The only document being relied upon by the applicants is the statement of the Divisional Fire Officer, Murshidabad dated 06.06.2017 in which two applicants, Manick Hazra and Sunil Singha have been shown as having worked more than 10 years. This document is not a clear proof of these applicants having worked more than 10 years as on 01.08.2011 because the period of engagement of these applicants has been shown as on 01.03.2016.

The learned counsel for the applicants draws my attention to the other Notifications in Memorandum No. 4011-F(P) dated 20.05.2013, Memorandum No. 1107-F(P) dated 25.02.2016 and 1033-F(P<sub>2</sub>) dated 08.02.2019. These modified Notifications cover certain criterias for payment of enhanced remuneration to different kinds of workers in different establishments. The Tribunal observes that although these Notifications had stipulated enhanced remuneration for different categories of workers with different years of engagement, however, it is still not satisfied that the applicants in this application are eligible for such benefits for the reason that these Notifications specifically cater to Casual/Daily rated/Contractual Workers who have been working for more than 10 years as on 01.08.2011. Further, the parent Notification No. Memorandum No. 9008-F(P) dated 16.09.2011 also includes an important criteria that workers who are otherwise eligible for benefits under such Notification ought to have been engaged against sanctioned post, as stated in (ix) of Memorandum No. 9008-F(P) dated 16.09.2011. In this instant case, it is clear that the applicants were engaged as part-time Sweepers by the local authority and not against any sanctioned post and without the express approval of the competent authority. This has been clearly expressed by the report of the Director General, Fire & Emergency Services and not disputed by

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the applicants' side. The contention of Mr. Halder that the Divisional Fire Officer, Murshidabad by Memo No. 365 dated 06.06.2017 had certified that these workers had worked for more than 240 days in a year and have been working in such capacity for more than 10 years as on 01.03.2016 does not hold much water because they have been certified as on 01.03.2016. The chart also does not depict the true picture regarding the nature of work performed by these workers. Although, the applicants are part-time Sweepers, but Divisional Fire Officer, Murshidabad have either by ignorance or by choice mentioned the word "Casual" against their nature of engagement. Be that as it is, the head of Directorate is the Director General, guided by the policies of the Department and the Government, has categorically certified that these applicants are not only part-time Sweepers but also were not engaged with approval of the competent authority and against any sanctioned post.

In view of the above observations, the Tribunal does not find any merit in the prayer and thus this application is **disposed of** without any orders.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

HS/SS