

**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 524 of 2019.

SRI BATOKRISHNA MONDAL – VS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

15  
18.7.2023

For the Applicant : Mr. A. Maity,  
Advocate.

For the State Respondents : Mrs. S. Agarwal,  
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 applicant has filed this application before this Tribunal for a direction to the respondent authorities to give benefits under Memo 9008-F dated 16.9.2011 and amended Notifications thereafter.

The applicant was a daily rated worker whose services were renewed from time to time by the Birbhum Collectorate. In terms of the Tribunal's order in OA 629 of 2016 dated 29.11.2018, the District Magistrate, Birbhum passed the reasoned order on 15.2.2019.

In the reasoned order, the respondent considered the matter and came to the conclusion that the applicant was neither engaged against any sanctioned post of Group D nor completed ten years of continuous service. Therefore, the applicant is not entitled to get the benefits under the Memo No. 9008-F dated 16.9.2011.

Challenging this impugned order, the applicant has filed this application and contested that the reason for rejection by the District Magistrate, Birbhum is erroneous and did not consider his past service. According to Mr. A.Maity, learned counsel for the applicant, the applicant has been working since 2003, which is evident

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from page 18 of the application. This is a certificate issued by the Nezarath Deputy Collector, Birbhum stating that the applicant has been working in the Collectorate as a daily rated worker for the past five years. However there is no mention of any year.

Further, Mr. Maity draws attention to several documents in this application which appears to have been written by the applicant and endorsed by a District Officer, as "Work done certificate" as a daily rated worker". Such certificates appears to have been issued on several different months during the period 2009-10.

Responding to another ground of rejection- which is as per 9008-F , the employee should have been appointed against a sanctioned post of Group D – Mr. Maity submits that this particular condition is not applicable to the applicant since he is a daily rated worker and not a contractual worker or Group D. Further, the memo 9008-F does not state that such condition is to be met also by a daily rated worker.

Mr. Maity referring to a clause 10 of the Memo 9008-F submits that as it is clear, such condition of appointment against a sanctioned post is not applicable for a daily rated worker.

Concluding his submission, Mr. Maity submits that the respondent authorities in their reply have not denied the fact that the applicant has been working as a daily rated worker since 2003.

The submission of Mrs. S. Agarwal, learned counsel for the State respondents will be heard on the next date.

Let the matter appear under the heading "Hearing" on 24th January, 2024.

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

Skg.