

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 545 OF 2023

ANUPAM CHAKRABORTY - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. Anupam Chakraborty,
and (appears in person)
Date of For the State Respondents : Mrs. Sunita Agarwal,
order Advocate

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03.07.2024

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 prayers in this application are as follows :

- “(a) To set aside the order passed by the Ld. Principal Judicial Secretary W B dated on 12.06.2023 and pleased to direct the respondents:-
- (b) To regularize the service of the applicant.
- (c) Not to disturb the service of the applicant as it is the only source of income for the survival of the applicant and his family.
- (d) To provide job security to the applicant till the age of retirement.
- (e) To pay equal pay to the applicant.”

The applicant's earlier application, OA 556 of 2021 was disposed of by this Tribunal. Prayers in these two applications were same, except prayer (a) of this application.

From the submissions and records, it is observed that the District Magistrate, Purulia by an order dated 20.06.2014 had engaged the applicant on temporary basis as Assistant Public Prosecutor followed by a similar order on 21.11.2016. It appears that one post of Assistant Public Prosecutor was lying vacant since 2014 in the Courts of Additional Chief Judicial Magistrate and Judicial Magistrate, Raghunathpur, Purulia. It is not clear to the Tribunal whether this post is still lying vacant or not, or any steps were taken to fill up this post as per recruitment rule.

In terms of the direction of this Tribunal dated 16.12.2022 in O.A. 556 of 2021, MA 120 of 2022 and MA 131 of 2022, the Principal Secretary, Judicial Department passed the impugned reasoned order. It is not disagreed by the applicant that the post for which he

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was engaged was on temporary and contractual in nature. The matter relating to his regularisation in the post of Assistant Public Prosecutor was referred to the Finance Department. The Finance Department in its opinion had advised the Administrative Department to consider the matter as per extant Act and Rules. The Principal Secretary, Judicial Department having heard the applicant and examined his case closely, was of the opinion that the records presented by the applicant were “neither convincing nor applicable to him”. He also observed that the applicant’s claim for his payment of fees @ Rs.1870/- was not tenable because such fee is paid only to PP/GP/Addl.P.P/Addl.G.P. of the Districts and Kolkata. Having been engaged only on temporary and contractual basis, the applicant cannot claim entry point basic pay of regular APPs nor claim optimum appearance/daily fees @ Rs.1870/-. However, considering the livelihood, he had requested the District Magistrate, Purulia to continue to engage him in the same capacity on contract on payment of appearance fee.

Having heard Mr. Chakraborty in person and Mrs. Sunita Agarwal, learned counsel and having examined the records closely, the Tribunal has observed that since Mr. Chakraborty was engaged once in 2014 on temporary and contractual basis, his claim to be regularised in regular service as Assistant Public Prosecutor is not tenable under any law. Filling up of any vacant post of APP is to be done as per Rules and procedures. If such process is initiated by the competent authority to fill up the vacancy, Mr. Chakraborty may also participate in the selection process, but he cannot claim to be absorbed against such vacancy as an APP on contract basis. Mr. Chakraborty’s prayer (c) not to disturb the service of the applicant is also not a valid prayer on the same grounds as stated in the earlier point. The prayer (d) “to provide job security” is also not a valid prayer. Similarly, his prayer for equal pay is also not worthy of consideration.

Having noted the above observations, the Tribunal does not see any merit in this application and it is disposed of without passing any orders.

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

SCN.