

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 568 OF 2022**

BHUBAN BAGDI - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

07
23.11.2023

For the Applicant : Mr.Sankha Ghosh
Mr. Ranjit Kumar Mondal
Advocates
For the State Respondents : Mr.Goutam Pathak Banerjee
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.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

From the submissions of the learned counsels and the records, it is clear that the petitioner Bhuban Bagdi was appointed to the post of Chowkidar by the Executive Engineer, Mayurakshi Headquarter Division by its order dated 17.04.1997. Although the order also stated that the post is purely temporary, but Bhuban Bagdi was allowed to continue in the same post till date and now re-designated as Orderly Peon. Also observed by this Tribunal is that during his service life, the petitioner was also awarded the benefits of ROPA 1998 and annual increments. So far there is no whisper about any dissatisfaction experienced by the authorities regarding his service he has been rendering. In terms of the direction of this Tribunal in OA-4 of 2022, in which the applicant had prayed for financial benefits, the respondent authorities passed a reasoned order rejecting such application for financial benefits. The respondent – Sandip Das, Executive Engineer, Mayurakshi Head Quarters Division, Suri, Birbhum, holding the same

post from which his predecessor had appointed this applicant in the year 1997, however, argues that the appointment of the applicant on compassionate ground was given “erroneously”. The respondent also questions the very legality of the appointment of the applicant’s father late Dharendra Nath Bagdi. Concluding the decision, the respondent observes that since there is no approval of the Department for appointment under compassionate ground for the applicant, therefore, he is not entitled for benefits which are allowed to other regular employees.

From the above reasons stated by the respondent, the Tribunal observes that citing erroneous actions in the past by the officials, the respondent is trying to stall any financial benefits prayed for by the applicant. The Tribunal also finds that if for erroneous reason, appointment was given, why such employee was allowed to continue in the service till now. In this case, the applicant - Bhuban Bagdi, appointed in 1997 has been allowed to continue in service till date. The respondent authorities cannot absolve their responsibilities and deny him his rightful financial benefits citing reasons of erroneous decisions taken by them in the past. The Tribunal also does not find any administrative or disciplinary action taken by the higher authorities against such officials for having acted without authority.

It was also submitted by Mr.G.P.Banerjee, learned counsel for the State respondent that such erroneous actions can be rectified as per guidelines of Finance Department Memo. dated 18.07.1964. However, the Tribunal has not seen any such order of the respondents correcting such mistakes made in the past, to be precise, so-called erroneous appointment of the applicant made way back in 1997. Therefore, the Tribunal concludes that for the laches on the part of the officials of the Department, the applicant cannot be punished and deprived of his

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rightful financial benefits for having served the respondents since 1997.

In view of the above observations, the respondent No. 1, the Principal Secretary, Irrigation and Waterways Department is directed to confirm the service of the applicant as per law and sanction the financial benefits, if entitled within three months from the date of communication of this order.

Accordingly, the application is disposed of.

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

BLR