

**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 568 of 2022**

*Bhuban Bagdi* -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and  
Date of order

For the Applicant : Mr. S. Ghosh,

Ld. Advocate.

For the State respondent : Mr. G. P. Banerjee,

Ld. Advocate.

06  
17.07.2023

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.

The applicant prays for a direction to the respondent authority to confirm his service w.e.f. 17.04.1997, the date he was appointed as a Chowkidar as per Notification No. 6060-F Calcutta, the 25<sup>th</sup> June, 1979 and an order do issue thereby allowing your applicant the benefit of movement of his pay and allowances to first higher scale of pay and allowances on completion of 08 years (i.e. from 17.04.1997, the initial date of appointment to the post of “Chowkidar”) and second higher scale of pay and allowances on 16 years in the form of “Modified Career Advancement Scheme, 2001” within a stipulated time period after setting aside the reasoned order dated 04.08.2022.

In terms of the direction passed by the Tribunal dated 28.03.2022 in OA 4 of 2022, the respondent passed a reasoned order dated 05.07.2022 after considering the representation filed by the applicant. In the reasoned order, the respondent has argued that the very appointment on compassionate ground issued to the applicant by the Executive Engineer was erroneous and such appointment was issued without obtaining the required approval of the competent authority. By an order dated 17.04.1997, Executive Engineer, Mayurakshi Headquarter Division had appointed the applicant to the post of Chowkidar under compassionate ground on a temporary basis. The impugned order also mentions that his father, Dharendra Nath Bagdi, who died-in-harness was also never under regular establishment. Therefore, the appointment of the applicant on compassionate ground was not only erroneous but was also not

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against any vacant sanctioned post.

Appearing on behalf of the applicant, submission of Mr. Ghosh is that for such mistake and laches of the respondents, why the applicant is being penalised by denying him his due promotion and service benefits. Responding on behalf of the respondent, Mr. Banerjee, however, agrees that it was a mistake on the part of the then Executive Engineer to issue such an appointment, although on temporary basis. He relies on a Notification of the Finance Department which allows rectification of mistakes in the service matters when it is detected. Further, Mr. Ghosh also submits that as per relevant Rules of the Government, such appointment on compassionate ground is considered only against posts which are sanctioned and regular. Therefore, the question does not arise that the applicant's father was neither against the sanctioned post nor was under any regular establishment.

Mr. Banerjee prays for accommodation to file reply by the next date. Rejoinder, if any, in the meantime.

Let the matter appear under the heading "**For Orders**" on **23.11.2023**.

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

CSM/SS