

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Mr. Sayeed Ahmed Baba, Member (Admn.)

**Case No. –OA 59 of 2020**

Sk. Anayul Haque - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>06</u> 13.12.2021	For the Applicant	: Mr. S. Agarwal, Mr. T.N. Sarkar, Advocates.
	For the State Respondent	: Mr. G.P. Banerjee, Mr. S. Bhattacharjee, Advocates.

In this application, Sk. Anayul Haque, the applicant, has prayed for certain reliefs, the relevant portion of which is as under :

*I. An order may be passed directing to the respondent authorities to promote the applicant in the post of Helper and Teacher Helper under Group-C in the vacant post lying vacant for Helper total 17 and Teacher Helper amount to vacancy 3 as per dated 31.08.2019 in consideration to the Helper and Teacher Helper is promotional post.*

*II. To consider the memo number 265 dated 23.05.2017 issued by Chief Superintendent of State Welfare Home, Banipur, South 24 Parganas addressing to the director of Mass Education & Extension & Ex-Officio Secretary, Mass Education Extension & Ex-Officio Secretary, Mass Education & Library Services Department, Govt. of West Bengal, Bikash Bhawan (9<sup>th</sup> Floor), Salt Lake City, Kolkata – 700 091 and forwarding that application for promotion to the post of Helper/Teacher Helper of 6 Group D employees of Banipur State Welfare Home, North 24-Parganas, after consideration of performance of their duties from the present post of Mali enjoyed by the applicant.*

*III. To consider that the applicant had performed the duty of Helper/Teacher Helper in addition of the duty of Mali and thereafter in 2009 and thereafter in 2015 has perform the duty of Helper/Teacher Helper in addition to the duty of Mali and thereafter from 30.09.2019 performing the duty of special needs of inmates along with the duty of Mali and to direct the authorities for reasonable and appropriate compensation.*

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*IV. To doing a pendency of that application a stay to the filling of the vacancies of the personal post of the Helper or Teacher Helper.*

*V. To quash the existing order vide memo no. 259/BSWH/19 dated 30.09.2019 for illegally sending him to the post of Mali and pray for setting aside that order, passed by the respondent Chief Superintendent State Welfare Home, Banipur, North 24 Parganas;”*

It appears that the applicant had joined as Mali in Banipur State Welfare Home on 8<sup>th</sup> September, 2006. By memo dated 8<sup>th</sup> July, 2009, the Chief Superintendent, State Welfare Home, Banipur, North 24-Parganas ordered the petitioner to act as Helper in addition to his normal duties and thereafter he continued to work as Mali and Helper. Again by memo dated 1<sup>st</sup> September, 2015, the Chief Superintendent, State Welfare Home, Banipur, North 24-Parganas had passed an order in the interest of public service directing the applicant to assist the Headmaster to look after the study of students at school hour. It is submitted by Mr. S. Agarwal, learned advocate for the applicant since the applicant was carrying out his duties as Mali and Helper and assisting the Headmaster to look after the study of students, the order contained in the memo dated 30<sup>th</sup> September, 2019 be quashed and order be issued directing the respondents to promote the applicant.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State authorities referring to the memo dated 30<sup>th</sup> September, 2019 submits that the applicant was appointed as Mali- a Group “D” post a substantive post. Subsequently, he was also assigned the duty of Helper and thereafter an additional duty to assist the Headmaster, in addition to his normal duties. Therefore, no order may be passed. Moreover, promotion as claimed by the applicant is not a matter of right.

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Having heard the learned advocates for the parties and considering the facts and circumstances of the case, since the applicant was appointed as Mali and thereafter was given additional assignment as Helper as stop gap arrangement and was also assigned the task of assisting the Headmaster in addition to his normal duties, in view of the memo dated 23<sup>rd</sup> May, 2017 issued by the Chief Superintendent, State Welfare Home, Banipur, North 24-Parganas to the Director of Mass Education Extension and Ex-Officio Secretary, Mass Education and Extension and Library Services Department, Government of West Bengal, the respondent no. 3, the application is disposed of by granting liberty to the applicant to file a representation, annexing copies of relevant documents in support of his claim for promotion along with a copy of this order before the said respondent no. 3 within four weeks from the date of obtaining a copy of this order downloaded from the website of the Tribunal or the certified copy of this order. If representation is filed within the time as stipulated, the said respondent no. 3 shall dispose of the same by passing a reasoned order to be communicated to the applicant within fifteen weeks after giving an opportunity of hearing and after verifying the records. We make it clear that we have not gone through the merits of the matter and all points are kept open to be dealt with by the respondent no. 3, in the event representation is filed.

**(SAYEED AHMED BABA)**  
**MEMBER (A)**

**(SOUMITRA PAL)**  
**CHAIRMAN**

CSM/SS