

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 619 OF 2019

GOPINATH BANERJEE & ORS. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicants : Mr. P.K. Mondal,
and Mr. S. Chatterjee,
Date of order Advocates

13
29.03.2023 For the Respondent No.2 and 4 : Mr. Gautam Pathak Banerjee,
Advocate

For the Respondent Nos. 1 and 3 : Ms. Ruma Sarkar,
Mr. Saurav Deb Ray,
Ms. Anjana Bhattacharjee,
Mr. Raja Bag,
Departmental representatives

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 parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the impugned order of the District Magistrate dated 23.12.2016. The impugned order in effect re-fixed the wage of the applicants at Rs.6,600/- per month without any allowances as per G.O. No.2966-F (P) dated 22.04.2010, G.O. No.11794-F (P) dated 22.12.2010 and G.O. No.9008-F (P) dated 16.09.2011. Earlier they were getting a wage of Rs.8,500/- per month as per G.O. No.4011-F (P) dated 20.05.2013. In the impugned order, the District Magistrate & Collector, Birbhum states that as casual workers each one of them has overdrawn an amount of Rs.2,54,244/- in excess of their entitlement from the period from 01.05.2010 to 29.02.2016. So the overdrawn amount by this order is to be recovered in 24 equal instalments from the wages payable to these applicants.

Submission of Mr. Mondal is that by G.O. No.3727-F dated 20.05.2009 the wages of the applicant as casual worker was fixed in the Pay Band of Rs.4900 - 16,200/- (PB-1).

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Submission is that without a notice and without giving any opportunity of hearing and without cancelling the earlier memo, the respondent No.4, the District Magistrate & Collector, Birbhum cannot issue an order directing them to deduct and recover the so called excess amount from each of the applicant.

Moreover, it is submitted that in another application, being O.A. 280 of 2017 : Biswanath Singh & 3 Ors. Versus The State of West Bengal & Ors., on a similar matter the Tribunal passed an order on 21st December, 2017 by directing the respondent No.4, the District Magistrate & Collector, Birbhum that the recovered amount so deducted be refunded to them. So, in view of the above, the learned counsel for the applicant submits that similar order may be given to the respondents to comply.

Mr. Gautam Pathak Banerjee, appearing for the respondent No. 2 and 4 responds that the order of recovery was based on a notification of the Finance Department which was issued during the year, 2010 and 2011. Therefore, the G.O. No.3727-F dated 20.05.2009 is not relevant in this case.

Regarding the Tribunal's order in O.A. 280 of 2017, submission is that applicants in this application are not similarly circumstanced since the applicants in that O.A. were regular Group 'D' employees, whereas the applicants in this application are contractual / casual employees.

Ms. Ruma Sarkar, the Departmental Representative submits that in another application, O.A. 921 of 2016, pending before this Tribunal, the same set of applicants have prayed for absorption in Group 'D' on regular basis. Therefore, the prayer in this application cannot be adjudicated without hearing the other application for absorption. Since O.A. 921 of 2016 is fixed on 28.06.2023 for hearing, therefore, this application may also be heard on the same day.

Fix 28.06.2023 for "Further Hearing".

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

SCN.